Journal of the Senate

Number 25 **Thursday, June 5, 1986**

PRAYER

The following prayer was offered by Senator John W. Vogt:

O Lord, our God, we bow our heads in thanksgiving that we stand here as free people in a free society.

Free to exert our individual wills on this legislative process as we enact the laws by which we live.

We pray that we will influence a fair and just outcome of the deliberations of this body, as we struggle to meet the needs of all the people of this state. We pray for wisdom and courage to acknowledge those needs and to address them.

We pause now, as always, to thank you for the blessings of this day—for our lives, our health, our families, and all those who are special to us, and all the blessings of this good earth. And we pray especially that the prayers of our families will be met—that we will all be home on time.

All these things we pray in your holy name. Amen.

CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—40:

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Excused: Senator Neal, periodically, to work on the appropriations bill; Senator Meek to attend conference committee meetings; Senator Peterson from 10:00 a.m. until 11:00 a.m.; Senator Castor at 3:00 p.m.

Excused: members of the various conference committees, periodically throughout the day

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, June 5, 1986: SB 1277, SB 1327, SB 1335, HB 340, HB 358, HB 461, HB 470, HB 526, HB 685, HB 941, HB 960, HB 961, HB 967, HB 969, HB 975, HB 998, HB 1038, HB 1045, HB 1065, HB 1067, HB 1119, HB 1141, HB 1144, HB 1147, HB 1148, HB 1158, HB 1252, CS for SB 1298, SB 1338, HB 1034, HB 696, HB 916, HB 1097, HB 1120, HB 1121, HB 996

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, June 5, 1986: CS for SB 644, SB 1173, SB 63, CS for SB 99, CS for HB 396, SM 264, CS for CS for SB 167, CS for SB 895, CS for SB 935, SB 1036, CS for SB 39, SB 1213, CS for SB 1235, SB 925, SB 442, SM 568, CS for SB 119, CS for SB 369, CS for SB 527, HB 1039, CS for CS for SB 891, CS for CS for SB 730, CS for CS for SB 105, CS for SB 990, CS for SB 511, CS for CS for SB 600, SJR 836, SB 869, CS for SB 353, SB 263, CS for SB 758

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Appropriations recommends the following pass: CS for SB's 77 and 191 with 4 amendments, SB 141

The bills were placed on the calendar.

The Committee on Appropriations recommends a committee substitute for the following: CS for SB 986

The bill with committee substitute attached was placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

June 4, 1986

The Committee on Personnel, Retirement and Collective Bargaining requests an extension of 15 days for consideration of the following: Senate Bills 133, 201, 284, 317, 493, 771, 795, 815, 995, 1229; HB 75

INTRODUCTION AND REFERENCE OF BILLS

First Reading

By Senator Langley—

SR 1346—A resolution honoring the City of Belleview on the 100th birthday of the City of Belleview Library.

—was referred to the Committee on Rules and Calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committees on Appropriations and Natural Resources and Conservation and Senators Stuart and Dunn—

CS for CS for SB 986—A bill to be entitled An act relating to areas of critical state concern; creating ss. 380.0661-380.0675, F.S.; authorizing certain counties to create a land authority by ordinance; providing for membership thereof; providing for an executive director and employees; providing powers of the land authority; providing for an advisory committee to establish priorities for acquisition of land; authorizing the issuance of bonds and providing requirements and procedures; requiring disclosure with respect to finder's fees; providing a penalty; limiting state and local government liability for bonds; requiring an annual report; prohibiting certain conflicts of interest by financial advisers; specifying tax exempt status of the land authority; creating s. 125.0108, F.S.; authorizing counties that create a land authority to levy a tourist impact tax in areas of critical state concern on certain transient rentals, food and beverage sales, and admissions; requiring a referendum; authorizing repeal of the tax; providing for collection and administration; providing uses of tax revenue; providing penalties; providing for liens; requiring development of a solid waste management facility and authorizing pledging of revenues by a land authority; directing the Department of Natural Resources to levy surcharges on certain admission to and overnight visits to state parks in areas of critical state concern in counties that create a land authority; providing for use of proceeds; amending s. 380.0552, F.S.; creating the Florida Keys Area Protection Act; ratifying the designation of an area of Monroe County as an area of critical state concern; providing for removal of such designation; providing for the application of certain land and water management laws; providing for the appointment and duties of a resource planning and management committee; providing principles for guiding development; providing for comprehensive plan elements and land development regulations; providing for modifications thereto; creating s. 380.051, F.S.; providing for coordinated agency review with respect to certain projects in the Florida Keys area of critical state concern; providing appropriations; providing an effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed House Bills 562, 748, 749, 1347, 1349, 1373, 1418, 1419; passed as amended CS for CS for HB 56, CS for HB 367, House Bills 413, 438, 554, 705, 1013, 1032, 1035, 1068, 1128, 1152, 1248, CS for HB 1296, CS for HB's 1371, 1291, 1328, and 1327, CS for HB's 343 and 436, CS for HB 268, HB 1375 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Silver and others—

HB 562—A bill to be entitled An act relating to arbitration; creating chapter 684, F.S., consisting of ss. 684.01-684.35, F.S., the "Florida International Arbitration Act"; providing legislative policy; providing for the scope of the chapter; providing definitions; providing for the conduct of arbitration; providing for freedom of parties to fix the rules of arbitration; providing for notice; providing for the appointment of the arbitral tribunal; providing for mediation, conciliation and settlement; providing for majority action by the tribunal; providing for consolidation of arbitrations; providing for hearings and place of arbitration; providing for representation by counsel; providing for evidence, witnesses, subpoenas and depositions; providing for interim relief; providing for applicable law; providing for awards for interest; providing for awards; providing for change of award; providing for court proceedings to compel arbitration and to stay certain court proceedings; providing for court proceedings during arbitration; providing for court proceedings upon final awards; providing grounds for vacating an award or declaring an award not entitled to conformation; providing for an award in a foreign currency; providing for judgment or decree on a final award; providing for a judgment roll and docketing; providing for application to circuit court; providing for consent to jurisdiction; providing for venue; providing for appeals; providing for transitional rule; providing for severability and characterization; providing certain immunity for arbitrators; creating s. 48.196, F.S., providing for service of process in connection with actions under the Florida International Arbitration Act; amending s. 95.051, F.S., providing for the tolling of the statute of limitations with respect to arbitral proceedings; providing an effective date.

—was referred to the Committees on Commerce, Judiciary-Civil and Appropriations.

By Representative Harris—

HB 748—A bill to be entitled An act relating to Hendry County; creating the Collins Slough Water Control District; providing district boundaries; prescribing powers, privileges, duties, liability, and officials; providing applicability of the provisions of chapter 298, F.S., to said district; providing for the appointment of the first board of supervisors and the election of future supervisors, defining their terms of office, prescribing their duties, powers, and qualifications, and fixing their compensation; providing for the levies of assessments and taxes upon the lands in said district and for the collection and enforcement thereof; providing that taxes shall be a lien on lands in the district and providing for the collection and enforcement of district taxes at the same time and in like manner as county taxes; providing that said taxes shall be extended by the county property appraiser on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes; providing for the same discounts and penalties as county taxes and providing for the compensation of the county taxing officials; providing for the levy of a uniform acreage tax on lands in said district to be used for paying expenses in organizing said district; authorizing said district to borrow money and issue negotiable or nonnegotiable notes, bonds, and other evidences of indebtedness in order to better carry out the provisions of this act; providing water control and management, reclamation, and irrigation of the lands in said district by units; providing severability; providing for precedence over conflicting laws; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Harris—

HB 749—A bill to be entitled An act relating to Hendry County; creating the Hendry/Hilliard Water Control District; providing district boundaries; prescribing powers, privileges, duties, liability, and officials; providing applicability of the provisions of chapter 298, F.S., to said district; providing for the appointment of the first board of supervisors and the election of future supervisors, defining their terms of office, prescribing their duties, powers, and qualifications, and fixing their compensation; providing for the levies of assessments and taxes upon the lands in said district and for the collection and enforcement thereof; providing that taxes shall be a lien on lands in the district and providing for the collection and enforcement of district taxes at the same time and in like manner as county taxes; providing that said taxes shall be extended by the county property appraiser on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes; providing for the same discounts and penalties as county taxes and providing for the compensation of the county taxing officials; providing for the levy of a uniform acreage tax on lands in said district to be used for paying expenses in organizing said district; authorizing said district to borrow money and issue negotiable or nonnegotiable notes, bonds, and other evidences of indebtedness in order to better carry out the provisions of this act; providing water control and management, reclamation, and irrigation of the lands in said district by units; providing severability; providing for precedence over conflicting laws; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Smith—

HB 1347—A bill to be entitled An act relating to Hernando County; establishing and organizing a municipality to be known and designated as the City of Spring Hill in said county; defining its territorial boundaries; providing for its government, jurisdiction, powers, franchises, immunities, privileges and means for exercising the same; prescribing the general powers to be exercised by said city; abolishing the Spring Hill Fire and Rescue District and providing for assumption of its assets and liabilities by the city; providing a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Lawson and Thompson—

HB 1349—A bill to be entitled An act relating to Franklin County; creating the Carrabelle Port and Airport Authority Act; providing definitions; establishing boundaries and providing for purpose; providing for officers and duties; providing for a budget; providing for expenditures; providing for powers of authority; providing for bonding power and rights; providing that obligations constitute legal investment; granting power to fix rates, tolls, etc., for use of facilities owned or controlled by authority; granting same powers as Boards of Pilot Commissioners and power to appoint pilots and a harbor master and prescribe their duties; granting power to grant and revoke Stevedore licenses; declaring port and airport facilities and income therefrom nontaxable public property; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Ward and B. L. Johnson—

HB 1373—A bill to be entitled An act relating to Okaloosa County; creating the Mid-Bay Bridge Authority; providing definitions; providing for membership, terms of office, officers, quorum, meetings, and removal of authority members; providing powers of authority; providing for an annual budget; providing for notice of meetings; providing bonding power and rights; providing for cooperation with Department of Transportation; providing an annual audit; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ward and others—

HB 1418—A bill to be entitled An act relating to the Okaloosa County Gas District; amending chapter 29334, Laws of Florida, 1953, as

amended; adding section 32 to redefine the area of service with respect to the territory served by the gas distribution system in Walton County; amending section 8 to allow the Board of County Commissioners of Okaloosa County to appoint a member to the board of directors of the district to represent the interest of the unincorporated areas; amending section 11, to eliminate the limitation of a maximum of 6 percent per annum interest on bonds, revenue certificates, or other financial obligations issued by the district; amending section 18, providing for distribution of the net profits of the district and providing a termination date for distribution of net profits to member municipalities; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Rules and Calendar.

By Representatives Martin and Mills—

HB 1419—A bill to be entitled An act relating to the City of Gainesville and Alachua County; establishing the "Gainesville-Alachua County Regional Airport Authority Act"; providing definitions; establishing the Gainesville-Alachua County Regional Airport Authority; providing for membership, terms, powers, duties and expenses; providing for notice of meetings; providing for preparation of an annual budget to be submitted for approval by the City of Gainesville; providing for the employment of an airport manager and other employees; providing for the relationship between the authority and certain governmental entities; providing for bonding power and rights; providing for building restrictions; providing application with respect to certain legal actions; repealing chapter 85-378, Laws of Florida; providing for a transition period prior to assuming operations of the airport; providing severability and an alternate method of selecting members of the authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Appropriations and Judiciary and Representative Simone and others—

CS for CS for HB 56—A bill to be entitled An act relating to membership campgrounds; creating s. 722.01, F.S.; creating the Florida Membership Campground Act; creating s. 722.02, F.S.; providing legislative purposes; creating s. 722.03, F.S.; providing for the scope of the act; creating s. 722.04, F.S.; providing definitions; creating s. 722.05, F.S.; requiring contracts for the purchase of the right to use campgrounds and facilities pursuant to a membership camping plan; providing for a cancellation period with regard to such contracts; creating s. 722.06, F.S.; requiring a disclosure statement; creating s. 722.065, F.S.; providing for filing membership camping contracts with the Division of Florida Land Sales, Condominiums, and Mobile Homes; providing a fee; providing for filing an affidavit concerning the occupancy level for campgrounds; creating s. 722.07, F.S.; requiring trust accounts; providing penalties; creating s. 722.08, F.S.; requiring non-disturbance instruments or alternative assurances; providing notice to creditors; creating s. 722.081, F.S.; providing circumstances under which an offeror may terminate or relocate campgrounds; creating s. 722.09, F.S.; defining advertising materials and providing restrictions; requiring disclosure with respect to certain advertising; creating s. 722.091, F.S.; relating to prize and gift promotional offers; providing requirements; creating s. 722.092, F.S.; relating to vacation and lodging certificates; creating s. 722.10, F.S.; relating to protection of purchasers' interests in planned facilities; planned future development of adjoining properties; transfer of offeror's interest in a campground; dues payments; creating s. 722.11, F.S.; relating to reciprocal programs; requiring a disclosure statement; providing for filing the disclosure statement and for providing the disclosure statement to purchasers; creating s. 722.12, F.S.; relating to registration of salespersons and tour generators; providing civil penalties; creating s. 722.13, F.S.; providing for regulation by the Division of Florida Land Sales, Condominiums, and Mobile Homes; providing penalties and providing for enforcement; creating s. 722.14, F.S.; relating to the applicability of chapter 212, F.S., to fees, penalties, and fines under chapter 722, F.S.; creating s. 722.15, F.S.; providing that proceeds collected pursuant to chapter 722 be deposited in the Florida Real Estate Time-Sharing Trust Fund; creating s. 722.16, F.S.; providing for purchasers' remedies; creating s. 722.17, F.S.; providing criminal penalties; providing for severability; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Transportation and Representatives Mitchell and B. L. Johnson—

CS for HB 367—A bill to be entitled An act relating to motor vehicle licenses; amending s. 320.14, F.S., providing for fractional license taxes with respect to certain trucks or truck tractors; amending s. 320.77, F.S. providing license restrictions on mobile homes; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By Representative Drage and others—

HB 413—A bill to be entitled An act relating to education; amending s. 232.246, F.S., providing that a course in speech and debate may be taken to satisfy a credit requirement in performing arts; creating the Council on Environmental Education; providing appointment and duties; requiring reports; providing for review and repeal; amending s. 229.8055, F.S., expanding intent with respect to environmental education in the public schools; providing responsibility to the school districts; modifying powers of the Commissioiner of Education; providing duties of the Department of Education with respect to environmental education curriculum development and assessment of student performance; providing effective dates.

—was referred to the Committees on Education and Appropriations.

By Representatives Tobin and Press—

HB 438—A bill to be entitled An act relating to labor regulations; prohibiting employers from taking retaliatory personnel action against employees under certain conditions; authorizing civil actions and providing specified relief; providing for certain employer relief; providing an effective date.

—was referred to the Committees on Commerce; Personnel, Retirement and Collective Bargaining; and Rules and Calendar.

By Representatives C. F. Jones and Burnsed—

HB 554—A bill to be entitled An act relating to aviation; amending s. 332.007, F.S.; providing that the Department of Transportation may fund a certain amount of the cost of land acquisition for a new airport or for the expansion of certain existing airports; creating s. 332.008, F.S.; creating the Florida Aviation Advisory Council within the Department of Transportation; providing for membership, powers and duties; providing for review and repeal; providing an effective date.

—was referred to the Committees on Transportation; and Finance, Taxation and Claims.

By Representative Peeples—

HB 705—A bill to be entitled An act relating to state uniform traffic control; amending s. 318.14, F.S.; providing that operating a vehicle without a valid registration or a valid driver's license constitutes noncriminal infraction; providing exceptions; providing that the failure to possess a vehicle registration or driver's license while operating a motor vehicle constitutes noncriminal infraction; amending s. 318.18, F.S.; providing that operating a vehicle without a valid registration or driver's license constitutes a nonmoving violation; providing that the failure to possess a vehicle registration or driver's license while operating a motor vehicle constitutes a nonmoving violation; amending s. 320.0605, F.S.; authorizing a fee; amending s. 320.07, F.S.; providing that operating a vehicle without a valid registration constitutes an infraction; providing exceptions; providing for dismissal of the charges by the clerk of the court in certain cases; authorizing a fee; amending s. 320.27, F.S.; deleting the requirement that motor vehicle dealers' records be made available to all law enforcement officers for inspection; deleting the requirement that dealers carry uninsured motorist coverage; amending s. 322.03, F.S.; providing that operating a vehicle without a valid driver's license constitutes an infraction; providing exceptions; providing for dismissal of the charges by the clerk of the court in certain cases; providing a fee; amending s. 322.15, F.S.; authorizing a fee; providing an effective date.

—was referred to the Committees on Transportation and Judiciary-Civil.

By Representative Evans-Jones and others—

HB 1013—A bill to be entitled An act relating to Brevard County; relating to the formation of a Special District within an area including a portion of the City of Palm Bay, the City of West Melbourne, and Brevard County; establishing the Water Control District of South Brevard; providing legislative intent; providing definitions; establishing the boundaries of the District; providing for a Board of Directors; establishing the powers and duties of the District; providing for levy of an annual user fee until ad valorem tax established; providing for the power to tax by ad valorem tax and to levy special assessments; providing for enforcement of such taxes and assessments; authorizing award of cost and attorneys' fees; providing for the issuance of revenue bonds and general obligations bonds; establishing initial operation and maintenance costs of the District and the method of payment; providing that obstruction of a drainage canal or watercourse is a criminal offense; providing for damages; providing for expansion or contraction of the boundaries of the District; providing an effective date.

(Substituted for CS for SB 1298 on the local bill calendar.)

By Representative Crotty and others—

HB 1032—A bill to be entitled An act relating to Orange County, Seminole County, and Osceola County; relating to zoological parks in such counties; providing a short title; providing legislative findings; establishing the Central Florida Zoological District and its governing board and boundaries; providing for quorum, rules of procedure, and seal of the governing board; providing the powers of the district including powers to levy ad valorem taxes and to incur debt; limiting the use of such ad valorem tax revenues; authorizing supplemental appropriations and services in kind; providing for the initial operation and maintenance of district facilities; authorizing the initial levy of ad valorem taxes to occur in 1986, subject to referendum approval of the act; providing for limitation of liability of members of the governing board; providing for severability; providing effective dates and transitional provisions; requiring referendum approval of the act and of indebtedness for capital projects for the Central Florida Zoological District.

—was referred to the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Rules and Calendar.

By Representative Crotty and others—

HB 1035—A bill to be entitled An act relating to Orange County, authorizing the Orange County School Board to construct two modular classroom elementary schools; providing for monitoring by the Office of Educational Facilities; providing for reporting to the Legislature; exempting the Orange County School Board from the provisions of s. 235.31(1)(a), F.S., which places limitations on the use of day-labor; providing for the repeal of Section 3; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Education; and Rules and Calendar.

By Representative Liberti—

HB 1068—A bill to be entitled An act relating to Palm Beach County; relating to the Palm Beach County Solid Waste Authority; amending section 2, chapter 75-473, Laws of Florida, as amended, removing the prohibition of solid waste collection by the authority; amending section 7, chapter 75-473, Laws of Florida, as amended, providing that the authority may provide billing service for solid waste collection fees for the unincorporated portions of Palm Beach County pursuant to written contract between county and authority and for municipalities in Palm Beach County pursuant to interlocal agreement; providing that collection fees shall be established by the Board of County Commissioners of Palm Beach County; adding new sections 8, 9, and 10 to chapter 75-473, Laws of Florida, as amended, pertaining to the imposition, levying, and collection of annual disposal special assessments; providing definitions; providing a purpose; providing determination of annual disposal special assessments; providing public hearing; setting forth method of collection; providing scope; providing discounts for early payment; providing delinquency; providing that the annual disposal special assessments shall constitute a lien on improved real property; providing payment of annual disposal special assessments and discharge of recorded liens; providing enforcement of delinquent assessments; providing that all governmental agencies owning improved real property within the incorporated and unincorporated areas of the county shall pay the annual disposal special assessments; providing that discount for early payment is not applicable to governmental agencies; providing delinquencies of assessments imposed against property owned by governmental agencies; providing that provisions set forth herein imposing a lien against property and method of enforcement shall not apply to property owned by governmental agencies; providing applicability of annual disposal special assessments to tax exempt improved real property; providing collection of annual disposal special assessments by the tax collector; providing purpose; providing determination of annual disposal special assessments; providing public hearing; providing method of collection of annual disposal special assessments; providing scope; providing enforcement and collection of annual disposal special assessments; providing payment of annual disposal special assessments; providing enforcement of delinquent annual special assessments; providing certification of a rate resolution to the property appraiser and tax collector; providing for annual disposal special assessments to governmental agencies; providing applicability of annual disposal special assessments to tax exempt improved real property; providing additional proceedings to enable the collection of annual disposal special assessments in same manner as ad valorem taxes; providing that solid waste collection assessments may be imposed in the same manner as solid waste disposal assessments; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative R. C. Johnson and others—

HB 1128—A bill to be entitled An act relating to Bay County; amending sections 1, 2, 3, 5, 8, 14, and 23, adding a new section 12, and repealing sections 10 and 12 of chapter 83-370, Laws of Florida; defining the term "charge"; authorizing the county to enter into exclusive or non-exclusive agreements for the financing, acquisition, improvement, construction, operation, maintenance and/or ownership of solid waste disposal and resource recovery facilities; establishing methodology by which the county is to prescribe rates, fees and other charges for the utilization of the services and facilities of the solid waste disposal and resource recovery system; authorizing the sale of facilities; repealing the allowance for a Technical Management Committee; repealing the requirement that charges made for any facilities or services rendered by the solid waste disposal and resource recovery system to the county shall be at least equal to those applicable to other customers under similar circumstances; providing for an exemption from Public Service Commission regulation; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Rules and Calendar.

By Representative Lombard and others—

HB 1152—A bill to be entitled An act relating to special taxing districts in Sarasota County; abolishing the Animal Pound District, the Gulf Gate Lighting District, the Hudson Bayou Bridge District, the Metropolitan Sarasota Fire and Rescue District, the Mosquito Control District, the North Casey Key Conservation District, the Northeast Area Fire Control District, the Old Myakka Area Fire Control District, the Sarasota Inlet District, the Siesta Bridge District, the Siesta Key Recreational Facilities District, the Siesta Key Special Fire Control District, the South Gate Lighting District, the South Trail Area Fire Control District, the Tamiami Trail Assessment District, the Venice Gardens Lighting District, and the Warm Mineral Springs Lighting District, each contingent upon the Board of County Commissioners of Sarasota County adopting an ordinance assuming the obligations and liabilities of the respective district; providing for the transfer of assets and obligations of an abolished district to the county; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Transportation and Representative B. L. Johnson—

HB 1248—A bill to be entitled An act relating to "the Beverage Law", amending section 561.01(4), F.S., defining alcoholic beverages; amending sections 561.01(5), 561.37, 561.54, 562.15, 562.34, 562.41, 562.47, 563.02, 563.05, 564.01, 564.02(3)(a), 564.04, 564.06, 565.01, 565.08, 565.12, 567.001, 568.01, 568.07, F.S., converting alcohol by weight to alcohol by volume; amending section 564.02, F.S., defining authorized sales under

beer and wine licenses; amending s. 561.20, F.S., authorizing issuance of special licenses under the Beverage Law to civic centers; providing for transferability; providing for reversion; amending ss. 210.70 and 561.12, F.S., and creating s. 561.025, F.S.; creating an Alcoholic Beverage and Tobacco Trust Fund and providing for deposit of specified funds therein; creating ss. 563.025 and 564.025, F.S.; imposing a surtax on license fees for vendors of beer and wine; creating ss. 563.045 and 564.041, F.S.; requiring brand registration for beer and wine; providing fees; providing a penalty; amending s. 565.09, F.S.; increasing the brand registration fee for spirituous liquors; amending s. 215.22, F.S.; authorizing a service charge deduction from the trust fund; amending s. 561.20, F.S.; including certain restaurants in certain counties within provisions relating to special liquor licenses; repealing s. 562.113, F.S., relating to the sale of alcoholic beverages to persons on active duty in the Armed Services of the United States; amending s. 563.06, F.S., relating to malt beverages with respect to required stamps; providing effective dates.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By the Committees on Appropriations and Judiciary and Representative Upchurch—

CS for HB 1296—A bill to be entitled An act relating to the judiciary; amending ss. 26.031, 34.022, and 35.06, F.S., to provide additional judges in specified circuit and county courts; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Appropriations.

By the Committees on Appropriations and Health and Rehabilitative Services and Representative R. C. Johnson and others—

CS for HB's 1371, 1291, 1328, 1327; CS for HB's 343 and 436; CS for HB 268—An act relating to the Department of Health and Rehabilitative Services; amending s. 401.113, F.S.; revising the formula for expenditures from the Emergency Medical Services Trust Fund; amending ss. 401.211, 401.23, 401.281, 401.35, and 401.38, F.S.; removing provisions relating to nonemergency medical transportation services; amending s. 401.24, F.S.; providing for biennial revision of the comprehensive state plan for emergency medical services; amending s. 401.245, F.S.; providing for representation on the Emergency Medical Services Advisory Council from each district of the Department of Health and Rehabilitative Services and a commercial ambulance operator; authorizing certain reimbursement for council members; removing a restriction on meetings; amending s. 401.25, F.S.; extending the service area for basic and advanced life support services to include waterways; amending s. 401.26, F.S.; providing for concurrent expiration of vehicle permits and service licenses; amending s. 401.27, F.S.; modifying renewal certification requirements for emergency medical technicians; removing provisions which authorize certification of physician's assistants as emergency medical technicians; modifying certificate expiration dates; amending s. 401.31, F.S.; revising provisions relating to inspection of licensees; amending s. 401.34, F.S.; revising a fee schedule; authorizing the department to amend fees by rule and prorate certain fees; eliminating fee exemptions for certain government-operated services; revising provisions relating to fee exemptions for volunteer service providers; amending s. 458.348, F.S.; requiring certain notice when a physician enters into a formal supervisory relationship, standing orders, or established protocol with a paramedic; amending s. 743.064, F.S.; authorizing prehospital care of minors by emergency medical services personnel; repealing s. 401.21, F.S., relating to short title; repealing s. 401.255, F.S., relating to licensure of nonemergency medical transportation services; repealing s. 401.33(6) and (7), F.S., relating to exemptions for certain nonemergency transportation services; creating s. 402.24, F.S., requiring exhaustion of third-party coverage prior to payment of funds authorized by law for payment of medical services provided by the department; providing subrogation rights of the department; specifying parties from whom payment shall be collected; authorizing release of medical records for reimbursement purposes; providing for endorsement of recovery rights; providing for liens; authorizing the department to make settlements; providing for rules; amending ss. 627.7372 and 768.50, F.S., relating to collateral sources of indemnity in certain actions; providing that medical assistance payments paid on behalf of a Medicaid recipient shall not be considered a collateral source; amending s. 409.266, F.S., providing that failure to file a lien shall not affect subrogation rights of the Department of Health and Rehabilitative Services to third-party payment for medical care; amending s. 391.021, F.S., redefining the term "eligible individual"; amending s. 39.01, F.S.; defining "child support"; amending ss. 39.032, 39.11, 39.111, 39.41, 39.402, 402.33, F.S.; requiring a court, under certain circumstances, to order fees and support payments be made to the Department of Health and Rehabilitative Services, a child-caring agency, a youth treatment program, an adult relative providing care, or an emergency shelter or detention center; amending ss. 409.168, 409.2554, 409.2564, F.S.; providing clarifying language; creating a Delinquency and Dependency Child Support Trust Fund; creating a statewide technical Organ Transplant Advisory Council; providing for the membership, terms, filling of vacancies, chairperson, responsibilities, and meetings thereof; authorizing reimbursement for travel expenses and per diem; providing for review and repeal; creating chapter 384, F.S., the "Control of Sexually Transmissible Disease Act"; providing definitions; prohibiting persons with certain diseases from engaging in sexual activity under certain circumstances; requiring certain reporting of persons with such diseases to the Department of Health and Rehabilitative Services; authorizing the department to interview such persons; providing for confidentiality; providing for examinations of such persons; authorizing quarantines and isolation under certain circumstances; providing for minors' consent to treatment; providing for certain serological testing of pregnant women; providing for examination and treatment of prisoners; providing for certain instruction in public schools regarding such diseases; providing for rules; providing penalties for certain acts; repealing ss. 383.08 and 383.09, F.S., relating to serological testing of pregnant women; repealing ss. 384.01-384.19, F.S., relating to veneral diseases; repealing ss. 741.051-741.0593, F.S., relating to serological testing prior to marriage; creating ss. 385.10 and 385.11, F.S.; creating the "Florida Chronic Diseases Act"; amending s. 381.605, F.S.; providing for comprehensive health improvement projects; amending s. 381.3712, F.S.; changing the membership of the Florida Cancer Control and Research Advisory Board; amending s. 381.3812, F.S.; authorizing certain disclosure of information from the statewide cancer registry; amending s. 381.341 and 381.411, F.S., relating to insulin; amending s. 402.21, F.S.; changing duties of the Department of Health and Rehabilitative Services with respect to chronic renal diseases; repealing ss. 385.01-385.05, F.S., relating to the sanitary inspection of hotels and boarding houses; amending s. 396.032, F.S.; providing a definition; creating s. 396.0815, F.S.; providing criteria and procedures for the involuntary evaluation of minors believed to be alcoholic; providing alternative dispositions upon evaluation; providing for parental notice; providing parental responsibility to pay certain fees for services; creating s. 396.125, F.S.; providing rights of minors in treatment; amending s. 397.021, F.S.; providing a definition; creating s. 397.0515, F.S.; providing criteria and procedures for the involuntary evaluation of minors believed to be drug abusers or drug dependents; providing alternative dispositions upon evaluation; providing for parental notice; providing parental responsibility to pay certain fees for services; creating s. 397.0545, F.S.; providing rights of minors in treatment; amending s. 396.172, F.S.; providing licensure exemption for facilities operated by a church or non-profit religious organization; amending s. 20.19, F.S., providing for reorganization of the department; providing for appointment of a Deputy Secretary for Operations, rather than an Assistant Secretary for Operations, rather than an Assistant Secretary for Operations; providing responsibilities; providing for an Assistant Secretary for Programs; renaming the Deputy Assistant Secretary for State Health Planning and Development as the Deputy Assistant Secretary for Regulation and Health Planning; providing responsibilities; providing for the appointment of a Deputy Assistant Secretary for Health; modifying responsibility of the Assistant Secretary for Program Planning with respect to uniform program quality among districts; deleting the restrictions on the number of staff; eliminating the Health Program Office and the Vocational Rehabilitation Program Office; clarifying responsibilities of the Economic Services Program Office, the Developmental Services Program Office, and the Children, Youth, and Families Program Office; specifying responsibility of the Alcohol, Drug Abuse, and Mental Health Program Office for adult forensic programs; providing a limitation on the number of representatives of certain provider groups serving on department advisory councils; eliminating the advisory council to the Health Program Office; providing for periodic review and update of the 5-year state plan for children and youth services; providing responsibility of the Deputy Assistant Secretary for Regulation and Health Planning with respect to certain licensure and certification; designating the Deputy Assistant Secretary for Health as the State Health Officer; providing qualifications; providing responsibilities; providing for appointment of Assistant Health Officers for Public Health and Primary Care, Disease Control, and Interprogram Development and Technical Assistance; providing for appointment of an advisory council for public health and primary care; providing that the Assistant Secretary for Administration shall serve as the chief budget officer of the department; mandating children, youth, and family services programs at

the district level; providing that district administrators shall have the same standing as assistant secretaries; removing a restriction on salaries of district administrators; providing that the district manager for administrative services shall be the chief budget officer of the district; revising budget entities; providing for periodic review of budget entity designations and authority to transfer funds between entities; removing a restriction on the authority of the secretary to transfer funds between districts; removing authority of the distric administrator to transfer funds between programs within a district; providing for selection of management fellows; providing for consultation with counties with respect to programs which mandate county financial participation; amending ss. 154.02, 154.04, 232.032, 381.272, 381.345, 383.14, 383.144, 403.771, 406.02, and 415.501, F.S., conforming to the reorganization of the department provisions relating to public health unit trust funds; personnel of the public health units; declaration of a communicable disease emergency; the Advisory Review Variance Board for onsite sewage disposal systems; the Diabetes Advisory Council; the Infant Screening Advisory Council; the Council for the Infant Hearing Impairment Program; dissemination of information relating to accidental release of toxic or hazardous substances; the Medical Examiners Commission; and the interprogram task force for the prevention of abuse and neglect of children; amending ss. 381.605, 393.066, 393.068, 394.67, 400.304, 401.245, 410.023, and 410.024, F.S., correcting cross references; amending s. 20.171, F.S., creating the Division of Vocational Rehabilitation within the Department of Labor and Employment Security; amending s. 413.20, F.S., providing a definition; providing that changes in terminology in the Florida Statutes be made; amending ss. 110.215, 229.8361, and 553.49, F.S., to conform to the act; transferring powers and duties relating to vocational rehabilitation from the Department of Health and Rehabilitative Services to the Division of Vocational Rehabilitation of the Department of Labor and Employment Security by a type four transfer; amending s. 28.101, F.S.; requiring an additional charge upon petitions for dissolution of marriage for deposit in the Child Welfare Training Trust Fund; amending s. 382.35, F.S.; requiring an increase in fees for certified birth certificates or birth records and providing for deposit in the Child Welfare Training Trust Fund; creating s. 402.40, F.S.; providing legislative intent; providing definitions; providing for the establishment of child welfare training academies; establishing the Child Welfare Standards and Training Council; providing for membership of the council and terms of office; providing functions; providing for annual reports; providing for expenses; requiring the Department of Health and Rehabilitative Services to establish a child welfare training program; creating a Child Welfare Training Trust Fund; requiring an assessment on court costs of persons convicted of certain law violations and on certain bond estreature or forfeited bail bonds; providing for receipt of other funding; providing for reversion of unexpended funds to the trust fund; providing for review and repeal; amending s. 415.101, F.S., creating the "Adult Protective Services Act"; clarifying legislative intent with respect to such protection for aged persons and disabled adults; amending s. 415.102, F.S., modifying definitions and providing additional definitions; amending s. 415.103, F.S., clarifying language; specifying additional persons who are required to report known or suspected abuse, neglect, or exploitation of aged persons or disabled adults; specifying contents of and modifying procedures with respect to reports; providing for expunction of records under certain circumstances; providing the tollfree number for the central abuse registry; providing immunity to persons making reports; amending s. 415.104, F.S., requiring on-site investigation of reports by the Department of Health and Rehabilitative Services; providing a time limit; requiring report of criminal justice agency investigations; requiring certain notification to the state attorney; requiring monthly reports from the state attorney; amending s. 415.105, F.S., providing departmental procedures with respect to provision of protective services when consent is given, when consent is withdrawn, when the person involved lacks capacity to consent, or when a caregiver refuses to allow services; providing for hearings; authorizing emergency protective services intervention, emergency entry of and removal from premises, and medical treatment, under certain circumstances; providing for petition, hearing, and notice; amending s. 415.106, F.S., requiring certain interprogram agreements or procedures; providing for interagency cooperation; amending s. 415.107, F.S., permitting access to confidential reports to certain additional persons; providing for notification of investigation upon request of the person making the initial report of abuse, neglect, or exploitation; providing for investigation of applicants for licensure of certain facilities; disqualifying certain persons from licensure; providing for exemptions; creating s. 415.1085, F.S., authorizing use of photographs, medical examinations, and X-rays in investigations of abused or neglected aged persons or disabled adults; providing for recovery of costs; providing procedures with respect to medical treatments; amending ss. 415.109, 415.112, 400.304, and 400.307, F.S., to conform to the act; amending s. 415.111, F.S., providing penalties for abusing, neglecting, or exploiting an aged person or disabled adult; repealing s. 415.108, F.S., relating to immunity from liability in reporting abuse, neglect or exploitation of aged or disabled persons; repealing s. 827.09, F.S., relating to penalties for abuse, neglect, or exploitation of aged or disabled persons; creating the "Handicap Prevention Act of 1986"; providing legislative intent; providing definitions; providing a continuum of prevention services to high risk and handicapped preschool children; requiring a joint report by the Department of Health and Rehabilitative Services and Department of Education; providing for interagency coordination in the Developmental Disabilities Planning Council; providing for the development of uniform standards; requiring a study; requiring the Department of Health and Rehabilitative Services to provide a prenatal care program; requiring rules; amending s. 415.5015, F.S., expanding the child abuse primary prevention and training program; amending s. 741.01, F.S., increasing the additional marriage license fee for funding domestic violence centers; creating s. 959.29, F.S., providing legislative intent; providing definitions; providing for the establishment of juvenile justice training academies; establishing a Juvenile Justice Standards and Training Council; providing for membership of the council and terms of office; providing functions; providing for annual reports; providing for expenses; requiring the Department of Health and Rehabilitatiave Services to establish a juvenile justice training program; creating a Juvenile Justice Training Trust Fund; requiring an assessment on court costs of persons convicted of certain law violations and on certain bond estreature or forfeited bail bonds; providing for receipt of other funding; providing for reversion of unexpended funds to the trust fund; providing for participation of certain youth services programs in the Florida Casualty Insurance Risk Management Trust Fund; specifying the entity to organize and operate such academies and to establish training curriculum for fiscal year 1986-1987; providing for review and repeal; amending s. 409.145, F.S., expanding the categories of persons 18 to 21 years of age who may continue to receive services in the children's foster care program; amending s. 409.166, F.S., expanding the eligibility for support and maintenance under the subsidized adoption program; amending s. 39.01, F.S., providing definitions; amending s. 39.407, F.S., relating to medical treatment for dependent children; authorizing medical screening by the Department of Health and Rehabilitative Services when a child is to be detained in shelter care; requiring certain consent to medical treatment; authorizing consent by the department under certain circumstances; providing for court orders for medical examination or treatment; providing for mental health or retardation services in emergency situations; deleting conflicting language; providing financial responsibilities of the child's parents or guardian; clarifying provisions relating to authority of the department as legal custodian of a child; amending s. 415.507, F.S., to conform provisions relating to investigation of child abuse or neglect; authorizing adoption of rules; amending s. 409.266, F.S., expanding the authority of the Department of Health and Rehabititative Services to impose sanctions upon providers for Medicaid or Medicare fraud; authorizing such sanctions for refusal of a provider to allow access to Medicaid records to the Medicaid fraud control unit of the Auditor General; requiring the department to notify certain agencies of the imposition of sanctions; HRS reporting to school districts; amending s. 39.01, F.S.; providing definitions; amending ss. 39.015, 39.403, 39.408, 959.24, F.S.; providing conforming language; amending ss. 39.401, 39.402, F.S.; omitting provisions authorizing that certain juveniles be placed in shelter care; creating a new part IV of ch. 39, F.S.; providing definitions and procedures; authorizing the Department of Health and Rehabilitative Services to provide services to certain children and families; providing legislative intent; providing procedures and court jurisdiction; providing for taking into custody a child alleged to be from a family in need of services or alleged to be a child in need of services; providing for placement in a shelter of a child from a family in need of services or a child in need of services; providing for investigation of complaints that a child is from a family in need of services; providing for services and treatment to a family in need of services; providing for fees; providing for case review and service-treatment plans; providing for family mediation; requiring the department to establish a family mediation program in each district; authorizing the department to contract for family mediation services; providing for selection and qualifications of family mediators; providing for disposition of cases; authorizing the department to file a petition for a child in need of services; providing for summonses and service of process; providing for response to petition and representation of parties; providing duties of the state attorney; authorizing physical and mental examination and treatment of the child and, under certain circumstances, the parent, guardian, or person requesting custody; authorizing emergency treatment; providing for hearings; pro-

viding for orders of adjudication; providing for disposition; providing for oaths, records, and confidential information; providing contempt of court sanctions; providing right to counsel; providing for appeals; providing for compensation for appointed counsel; amending s. 232.19, F.S; conforming provisions relating to habitual truancy; amending s. 27.51, F.S.; requiring the public defender to represent an indigent alleged to be a child in need of services; creating a Child in Need of Services Trust Fund; amending s. 901.15, F.S., authorizing a law enforcement officer to make a warrantless arrest if the officer has probable cause to believe that a person has committed a battery upon a child or child abuse and finds evidence of bodily harm or reasonably believes that there is danger of violence; providing certain immunity; amending s. 402.181, F.S., providing for restitution under the State Institutions Claims Fund for damages caused by shelter or foster children; providing effective dates.

—was referred to the Committees on Health and Rehabilitative Services; Natural Resources and Conservation; Judiciary-Civil; Education; Finance, Taxation and Claims; and Appropriations.

By Representatives Kelly and Smith—

HB 1375—A bill to be entitled An act relating to Sumter County; providing for the creation of the Sumter County Airport Authority; providing definitions; providing that the membership shall consist of appointees of the Board of County Commissioners of Sumter County; providing powers and duties; providing for preparation of a budget for approval by the board of County Commissionersof Sumter County; providing for contracts; providing for action by resolution; providing for contributions of certain political subdivisions ; providing for contributions of certain political subdivisions; providing for a tax exemption; providing that this act shall be a supplemental method of doing things authorized; providing severability; providing for liberal construction; providing that inconsistent laws shall be declared inapplicable; providing for a referendum.

—was referred to the Committee on Rules and Calendar.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments and passed HB 572 and CS for HB 731 as amended.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 67, 164, CS for SB 312, Senate Bills 498, 929, 946, CS for SB 1239.

Allen Morris, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments and passed SB 83 as amended.

Allen Morris, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

CS for CS for SB 103—A bill to be entitled An act relating to domestic violence; amending s. 415.601, F.S.; providing legislative intent; amending s. 415.602 and s. 741.30, F.S.; redefining "domestic violence" by changing the definition of what constitutes such violence; conforming provisions relating to actions for protection against domestic violence; amending s. 741.29, F.S.; specifying that certain particulars be in a police report of an alleged incident of domestic violence; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 15, insert:

Section 1. Section 415.601, Florida Statutes, is amended to read:

415.601 Domestic violence cases; treatment and rehabilitation of victims and perpetrators; legislative intent.—The Legislature recognizes that certain persons who *commit or threaten to commit an assault, battery, or sexual battery against another individual to whom such person is or was married or with whom such person is or was cohabitating* ~~assault, batter, or otherwise abuse their spouses~~ and the *victims of* ~~persons subject to~~ such domestic violence are in need of treatment and rehabilitation. It is the intent of the Legislature to assist in the development of domestic violence centers for the victims of domestic violence and to provide a place where the parties involved may be separated until they can be properly assisted.

Section 2. Subsection (3) of section 415.602, Florida Statutes, is amended and subsection (6) is added to said section to read:

415.602 Definitions of terms used in ss. 415.601-415.608.—As used in ss. 415.601-415.608, the term:

(3) "Domestic violence" means any *act or threatened act of assault, battery, or sexual battery by a person against another individual to whom such person is or was married or with whom such person is or was cohabitating* ~~assault, battery, or criminal sexual conduct by a person against the person's spouse~~.

(6) "Cohabitating" means members of the opposite sex living in a single dwelling unit as conjugal partners, though not legally married.

Section 3. Subsection (2) of section 741.29, Florida Statutes, is amended to read:

741.29 Investigations by law enforcement officers of incidents of domestic violence; notice to victims of legal rights and remedies; reporting of incidents.—

(2) When a law enforcement officer investigates an allegation that an incident of domestic violence has occurred, whether or not an arrest is made, the officer shall make a written police report of the alleged incident. The officer shall submit the report to his supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. *This report shall include specific descriptions of any injuries observable on the victim or abuser, any indicators of threatening behavior or intoxication on the part of the abuser, and any alleged or observed use of weapons.*

Section 4. Subsection (1), paragraph (a) of subsection (2), and paragraph (b) of subsection (4) of section 741.30, Florida Statutes, are amended to read:

741.30 Action ~~by spouse~~ for injunction for protection against domestic violence; powers and duties of court and clerk of court; filing and form of petition for injunction; notice and hearing; temporary injunction; issuance of injunction; enforcement.—

(1) As used in this section, the term:

(a) "Domestic violence" means *any act or threatened act of assault, battery, or sexual battery by a person against another individual to whom such person is or was married or with whom such person is or was cohabitating.* ~~any assault, battery, or sexual battery by a person against the person's spouse.~~

(b) *"Cohabitating" means members of the opposite sex living in a single dwelling unit as conjugal partners, though not legally married.* ~~"Spouse" means a person to whom another person is married or a person to whom another person has been married and from whom such person is now separated or divorced.~~

(2) There is created a cause of action for an injunction for protection in cases of domestic violence.

(a) Any *person* ~~spouse~~ who is the victim of any act of domestic violence has standing in the circuit court to file a sworn petition for an injunction for protection against domestic violence.

(4)

(b) The sworn petition *may* ~~shall~~ be in substantially the following form:

PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner . . (Name) . . ., who has been sworn and says that the following statements are true:

(a) Petitioner resides at: . . . (address) . . .

(b) Respondent resides at: . . . (address) . . .

(c) *Petitioner is or was married to the respondent or is or was cohabitating with the respondent* ~~is the spouse or former spouse of the Petitioner~~.

(d) Petitioner has suffered domestic violence because respondent has: . . . . . .

(e) Petitioner alleges the following additional specific facts: (mark appropriate sections)

. . . . Petitioner is the custodian of a minor child or children whose names and ages are as follows: . . . . . .

. . . . Petitioner needs the exclusive use and possession of the dwelling that the parties share.

. . . . Petitioner is unable to obtain safe alternative housing because:. . . .

. . . . Petitioner genuinely fears that respondent will abuse, remove, or hide the minor child or children from petitioner because: . . . . . .

(f) Petitioner genuinely fears domestic violence by respondent.

(g) Petitioner seeks: (mark appropriate section or sections)

. . . . An immediate injunction restraining the respondent from committing any acts of domestic violence.

. . . . An injunction restraining the respondent from committing any acts of domestic violence.

. . . . An injunction awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

. . . . An injunction awarding temporary custody of, or temporary visitation rights with regard to, the minor child or children of the parties.

. . . . An injunction establishing temporary support for the minor child or children or the petitioner.

. . . . An injunction directing the respondent to participate in treatment or counseling services.

. . . . An injunction providing any terms the court deems necessary for the protection of a victim of domestic violence, including any injunctions or directives to law enforcement agencies.

(Renumber subsequent sections.)

Amendment 2—On page 1 in the title, line 2, after the semicolon, insert: amending s. 415.601, F.S.; providing legislative intent; amending s. 415.602 and s. 741.30, F.S.; redefining "domestic violence" by changing the definition of what constitutes such violence and who constitutes a victim of such violence; defining the term "cohabitating"; conforming provisions relating to actions for protection against domestic violence; amending s. 741.29, F.S.; specifying that certain particulars be in a police report of an alleged incident of domestic violence;

Senator Fox moved that the Senate concur in the House amendments. The motions failed and the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

CS for SB 1030—A bill to be entitled An act relating to affordable housing; creating part VI of chapter 420, F.S., consisting of ss. 420.601-420.609; creating s. 420.601, F.S., entitling part VI as the "Florida Affordable Housing Act of 1986"; creating s. 420.6015, F.S., providing legislative findings; creating s. 420.602, F.S., providing definitions; creating s. 420.603, F.S., creating the Florida Affordable Housing Trust Fund and providing for administration and disposition thereof; creating s. 420.604, F.S.; providing legislative findings and intent; establishing the Florida Affordable Housing Demonstration Program; providing for notice; providing for designation of demonstration areas in accordance with specified criteria; providing for advertisement and solicitation of proposals; providing application procedure; granting preference to demonstration areas for programs implemented under part VI; creating s. 420.605, F.S., establishing a zero- or reduced-interest loan program; providing intent; providing uses of and restrictions on loan funds; providing powers of the Florida Housing Finance Agency; creating s. 420.606, F.S.; providing legislative findings and purpose; directing the Department of Community Affairs to provide training and technical assistance to community-based organizations; providing powers of the department; creating s. 420.607, F.S., establishing a loan program to assist community-based organizations in meeting certain predevelopment expenses associated with housing development; providing uses of and restrictions on loan funds; providing application procedure; providing powers of the department; creating s. 420.608, F.S.; providing legislative findings and purpose; providing for an inventory of publicly owned lands and buildings; requiring a report; providing powers of the department; creating s. 420.609, F.S., creating the Affordable Housing Study Commission; providing for membership, organization, expenses, appointment, and termination; providing for certain assistance; providing duties; requiring reports; creating part VII of chapter 420, F.S., consisting of ss. 420.701-420.713; creating s. 420.701, F.S., entitling part VII as the "Florida Mobile Home Relocation Site Acquisition and Development Act of 1986"; creating s. 420.702, F.S., providing legislative findings; creating s. 420.703, F.S., providing definitions; creating s. 420.704, F.S., creating the Mobile Home Relocation Site Acquisition and Development Trust Fund; creating s. 420.705, F.S., providing for loans for acquisition and development of suitable sites for relocation parks; providing restrictions; creating s. 420.706, F.S., providing terms of loan agreements; creating s. 420.707, F.S., providing for rules; creating s. 420.708, F.S., providing for development of loan application procedure; creating s. 420.709, F.S., providing for expiration of lending authority; creating s. 420.710, F.S., providing procedures upon default; creating s. 420.711, F.S., providing recourse upon failure or inability to develop; creating s. 420.712, F.S., providing for disposition of property accruing to state; creating s. 420.713, F.S., declaring certain lands to be taxable; amending ss. 420.503, 420.508, and 420.509, F.S., providing an exception to the requirement that bonds issued by the Florida Housing Finance Agency be rated; providing an appropriation; providing for allocation of specified amounts to specified programs; providing for formation of an advisory group under the Department of Community Affairs and the Florida Housing Finance Agency; providing purposes and duties; directing the Department of Health and Rehabilitative Services to provide services related to housing for the elderly; authorizing certain demonstration projects; requiring annual reports; directing the Board of Regents to develop a proposal for a multidisciplinary center on housing for the elderly at one or more state universities; providing for a report; providing for review and repeal; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 46, line 1, insert a new section 35 to read:

Section 35. Paragraph (b) of subsection 4 of section 402.405, Florida Statutes, is amended to read:

420.405 Grants and loans authorized; activities eligible for support.—

(4) In addition to any terms or conditions which the secretary may require, each housing assistance loan agreement shall include:

(b) Provision for a schedule for the repayment of principal and interest with a term not to exceed 3 years. However, the secretary is authorized to extend the term of a loan for an additional period not to exceed 2 years*; and for another additional term not to exceed one year if he finds that extraordinary circumstances exist and such extension would not substantially jeopardize the department's security interest.*

(Renumber subsequent sections.)

Amendment 2—On page 46, line 4, after the period (.) insert:

Section 36. Subsection (6) of section 421.08, Florida Statutes, is amended to read:

421.08 Powers of authority.—An authority shall constitute a public body corporate and politic, exercising the public and essential governmental functions set forth in this chapter, and having all the powers necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(6) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas, and the problem of providing dwelling accommodations for persons of low income, *to administer fair housing ordinances and other ordinances as adopted by cities, counties, or other authorities who wish to contract for administrative services,* and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

Section 37. For the purpose of incorporating the amendment to s. 421.08 in a reference thereto, subsection (2) of section 421.11, Florida Statutes, is reenacted to read:

421.11 Cooperation of authorities.—

(2) Any county housing authority may enter into an interlocal agreement with one or more local governing bodies pursuant to the provisions of s. 163.01, the Florida Interlocal Cooperation Act of 1969, with respect to projects or programs located within the county or an adjacent county, and any city housing authority may enter into such agreement with respect to projects or programs located within the county, provided that no power granted an authority under s. 421.08 may be reserved to or exercised by a local governing body under such agreement.

(Renumber subsequent section.)

Amendment 3—On page 3 in the title, line 29, after the semicolon (;) insert: amending s. 421.08, F.S., providing for fair housing ordinances;

Amendment 4—On pages 40, 41, and 42, lines 24-31, 1-31, and 1-11, respectively, strike all of said lines and insert:

Section 29. There is hereby appropriated from the General Revenue Fund to the Florida Affordable Housing Trust Fund the sum of $2.7 million, which shall be allocated as follows:

(1) The sum of $2,100,000 shall be allocated to implement the affordable housing loan program established pursuant to s. 420.605, Florida Statutes, subject to the following conditions:

(a) At least $1,600,000 of this amount shall be loaned to applicants who make application under, and are selected in accordance with, the provisions of s. 420.604(4) and (6), Florida Statutes.

(b) Except for moneys which may be loaned pursuant to paragraph (a), no more than $500,000 of this amount may be loaned directly to very low-income or low-income persons as provided in s. 420.605(2)(c), Florida Statutes.

(2) The sum of $120,000 shall be allocated to implement the community-based organization training and technical assistance program established pursuant to s. 420.606, Florida Statutes.

(3) The sum of $400,000 shall be allocated to implement the community-based organization loan program established pursuant to s. 420.607, Florida Statutes.

(4) The sum of $50,000 shall be allocated to implement the provisions providing for inventory of publicly owned lands and buildings under s. 420.608, Florida Statutes.

(5) The sum of $30,000 shall be allocated to implement s. 420.609, Florida Statutes, which provides for establishment of the Affordable Housing Study Commission.

An amount up to 2.5 percent of the amounts allocated as described in subsections (1)-(5) may be retained by the Department of Community Affairs to accomplish the purposes of the Florida Affordable Housing Act of 1986, including the provision of training and technical assistance other than that provided pursuant to s. 420.606, Florida Statutes, as created herein. Moneys allocated to the programs described in subsections (1)-(5) which remain unexpended and unencumbered 1 year from the effective date of this act may be transferred between programs in the discretion of the Secretary of Community Affairs, upon approval of the Executive Office of the Governor in consultation with the chairmen of the House and Senate Legislative Appropriations Committees.

Section 30. There is hereby appropriated from the General Revenue Fund to the Department of Community Affairs, for deposit in the Mobile Home Relocation Site Acquisition and Development Trust Fund, the sum of $600,000 to implement the provisions of part VII of chapter 420, Florida Statutes, consisting of ss. 420.701-420.713, Florida Statutes, as created herein.

Amendment 6—On page 3 in the title, line 29, after the first semicolon (;) insert: amending s. 402.405, F.S., providing for additional extension of time for loan repayment;

On motions by Senator Meek, the Senate concurred in the House amendments.

CS for SB 1030 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Johnson	Neal
Barron	Gersten	Kiser	Peterson
Castor	Girardeau	Langley	Scott
Childers, D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick, Weinstein

On motion by Senator Jenne, the House was requested to return CS for SB 460.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

CS for SB 192—A bill to be entitled An act relating to condominiums and cooperatives; amending s. 514.0115, F.S.; exempting pools serving certain condominiums and cooperatives from supervision and regulation under ch. 514, F.S., except for water quality; amending s. 194.011, F.S.; allowing a condominium association to file with the property appraisal adjustment board a joint petition on behalf of certain association members; amending s. 194.013, F.S.; providing that the board may charge a fee for filing joint petitions based on costs; amending s. 194.034, F.S.; providing additional procedures for hearing joint petitions; creating ss. 718.1035, 719.1035, F.S.; providing that the use of a power of attorney that affects any aspect of the operation of a condominium or cooperative shall be subject to certain requirements; amending s. 718.111, F.S.; authorizing the condominium association to take part in actions in eminent domain; revising language with respect to official records; amending s. 718.112, F.S.; revising language with respect to bylaws, the annual budget of common expenses of a condominium with respect to reserve accounts for deferred maintenance, assessments, transfer fees, fidelity bonds, and arbitration; authorizing the acceleration of assessments under certain circumstances; providing for fidelity bonds; amending ss. 718.116, F.S.; providing for priority of liens; amending s. 718.3025, F.S., relating to operation, maintenance, or management; amending s. 718.501, F.S., relating to powers and duties of the division; amending s. 718.608, F.S., relating to notice of conversion and time of delivery; amending s. 719.103, F.S., relating to definitions; amending s. 719.104, F.S.; providing for required official records with respect to cooperative associations; amending s. 719.105, F.S., relating to cooperative parcels; amending s. 719.106, F.S.; revising language with respect to the annual budget of common expenses of a cooperative with respect to reserve accounts for deferred maintenance;

providing for priority of liens; amending s. 719.107, F.S., relating to common expenses; amending s. 719.108, F.S., relating to rent and assessment; amending s. 719.109, F.S., relating to rights of owners to peaceably assemble; amending s. 119.110, F.S., relating to limitation on actions by association; amending s. 719.111, F.S., relating to attorney's fees; amending s. 719.112, F.S., relating to unconscionable leases; creating s. 719.114, F.S., relating to separate taxation of parcels; creating s. 719.1255, F.S., relating to arbitration of disputes; amending s. 719.202, F.S., relating to sales or reservation deposits; amending s. 719.203, F.S., relating to warranties; amending s. 719.301, F.S., relating to the transfer of association control; amending s. 719.302, F.S., relating to association agreements; amending s. 719.303, F.S., relating to owner obligations; amending s. 719.304, F.S., relating to the association's right to amend cooperative documents; amending s. 719.401, F.S., relating to leaseholds; amending s. 719.403, F.S., relating to phase cooperative; amending s. 719.501, relating to powers and duties of the division; amending s. 719.502, F.S., relating to filing prior to sale or lease; amending s. 719.503, F.S., relating to disclosure prior to sale; amending s. 719.504, F.S., relating to prospectus; amending s. 719.506, F.S., relating to publication of false information; amending s. 719.606, F.S., relating to conversion to cooperatives; amending s. 719.608, F.S., relating to notice of intended conversion; amending s. 719.61, relating to notices; amending s. 719.612, F.S., relating to right of first refusal; amending s. 719.616, F.S., relating to disclosure of condition of building; amending s. 719.618, F.S., relating to converter reserve accounts; repealing s. 718.302(1)(e), F.S.; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 3, line 30, strike everything after the enacting clause and insert:

Section 1. Subsections (3) and (4) of section 514.0115, Florida Statutes, are amended to read:

514.0115 Exemptions from supervision or regulation.—

(3) Pools that serve condominium or cooperative units of associations whose recorded documents prohibit rental of the units or do not permit rental of the units for periods of less than 60 days are exempt from supervision under this chapter except for water quality.

(4)~~(3)~~ A private pool, used for instructional purposes in swimming, shall not be regulated as a public pool.

Section 2. Paragraph (e) is added to subsection (3) of section 194.011, Florida Statutes, to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the property appraisal adjustment board shall describe the property by parcel number and shall be filed as follows:

(e) A condominium or cooperative association, with approval of its board of administration, may file with the property appraisal adjustment board a single joint petition on behalf of any association members who give written consent to such a joint petition and who own parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition.

Section 3. Subsection (1) of section 194.013, Florida Statutes, is amended to read:

194.013 Filing fees for petitions; disposition; waiver.—

(1) If so required by resolution of the property appraisal adjustment board, a petition filed pursuant to s. 194.011 shall be accompanied by a filing fee to be paid to the clerk of the property appraisal adjustment board in an amount determined by the board not to exceed $15 for each separate parcel of property, real or personal, covered by the petition and subject to appeal. However, no such filing fee may be required with respect to an appeal from the disapproval of homestead exemption under s. 196.151 or from the denial of tax deferral under s. 197.253. Only a single filing fee shall be charged under this section as to any particular parcel of property, despite the existence of multiple issues and hearings pertaining to such parcel. *For joint petitions filed pursuant to s. 194.011(3)(e), a single filing fee shall be charged. Such fee shall be calculated as the cost of the special master for the time involved in hearing the joint petition and shall not exceed $5 per parcel. Said fee to be proportionately paid by affected parcel owners.*

Section 4. Subsection (6) is added to section 194.034, Florida Statutes, to read:

194.034 Hearing procedures; rules.—

(6) For purposes of hearing joint petitions filed pursuant to s. 194.011(3)(e), each included parcel shall be considered by the board as a separate petition. Such separate petitions shall be heard consecutively by the board. If a special master is appointed, such separate petitions shall all be assigned to the same special master.

Section 5. Section 718.1035, Florida Statutes, is created to read:

718.1035 Power of attorney; compliance with chapter.—The use of a power of attorney that affects any aspect of the operation of a condominium shall be subject to and in compliance with the provisions of this chapter and all condominium documents, association rules and other rules adopted pursuant to this chapter, and all other convenants, conditions and restrictions in force at the time of the execution of the power of attorney.

Section 6. Subsections (3), (4), and (10), paragraphs (b) and (d) of subsection (11), and paragraph (a) of subsection (12) of section 718.111, Florida Statutes, are amended, and subsection (14) is added to said section to read:

718.111 The association.—

(3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT, SUE, AND BE SUED.—The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and on units; *and may defend actions in eminent domain or bring inverse condemnation actions.* If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common-law right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.

(4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.—The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements; however, the association may not charge *a use* ~~any~~ fee against a unit owner for the use of common elements or association property unless *otherwise provided for in the declaration of condominium or by a majority vote of the association or unless the charges relate to expenses incurred by an owner having exclusive use of the common elements or association property* ~~such use is the subject of a lease between the association and the unit owner~~.

(10) EASEMENTS.—Unless prohibited by the declaration, the association has the authority, without the joinder of any unit owner, to grant, modify, or move any easement if the easement constitutes part of or crosses the common elements. This subsection does not authorize the association to grant, modify, or move any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without their consent or approval as required by law or the instrument creating the easement. Nothing in this subsection affects the minimum requirements of s. 718.104(4)(m) *or the powers enumerated in subsection (3).*

(11) INSURANCE.—

(b) Every hazard policy which is issued to protect a condominium building shall provide that the word "building" wherever used in the policy include, but not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as they existed

at the time the unit was initially conveyed if the original plans and specifications are not available. However, *unless, prior to October 1, 1986, the association is required by the declaration to provide coverage therefor,* the word "building" does not include floor coverings, wall coverings, or ceiling coverings. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy.

(d) ~~Within 30 days after October 1, 1984, the division shall notify each association of the changes in insurance obligations and coverage specified in this section. Such notice shall also specify the substance of a further notice that each association will forward to each member thereof. The~~ *A* notice ~~to members~~ shall be mailed by each association *to each unit owner* not less than 45 days prior to the effective date of any renewal of or amendment to the association's coverage which reflects the changes authorized *by chapter 84-368, Laws of Florida,* ~~herein~~ and shall advise the members of any change in insurance coverage to be provided by the association, including a description of the property previously covered by insurance obtained by the association which will no longer be covered, and of the effective date of such change.

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, when applicable, which shall constitute the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and of each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and of each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and of each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books which contain the minutes of all meetings of the association, of the board of directors, and of unit owners, which minutes shall be retained for a period of not less than 7 years.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium which the association operates, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year.

12. *Ballots, sign-in sheets, voting proxies, and all other papers relating to elections* ~~Voting proxies~~, which shall be maintained for a period of 1 year from the date of the meeting *to* ~~for~~ which the *document relates* ~~proxy was given~~.

13. All rental records, when the association is acting as agent for the rental of condominium units.

(14) The division shall adopt rules which may require that the association deliver to the unit owners, in lieu of the financial report required by subsection (13), a complete set of financial statements for the preceding fiscal year. The financial statements shall be delivered within 90 days following the end of the previous fiscal year or annually on such other date as provided by the bylaws. The rules of the division may require that the financial statements be compiled, reviewed, or audited and the rule shall take into consideration the criteria set forth in s. 718.501(1)(j). The requirement to have the financial statements compiled, reviewed, or audited does not apply to associations when a majority of the voting interests of the association present at a duly called meeting of the association have determined for a fiscal year to waive this requirement. The meeting shall be held not less than 30 days prior to the end of the fiscal year, and the waiver shall be effective for only one fiscal year. This subsection does not apply to a condominium which consists of 50 or fewer units.

Section 7. Paragraph (b) of subsection (1), and paragraphs (f), (g), (i), (j), and (l) of subsection (2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

(1) GENERALLY.—

(b) No amendment to the bylaws is valid unless recorded, with identification on the first page thereof of the book and page of the public records where the declaration of each condominium operated by the association is recorded. ~~The bylaws must be amended in accordance with the procedure and vote set forth in the bylaws or articles of incorporation. If the articles do not provide a procedure, the vote required shall be that required to amend the declaration of condominium.~~

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(20).

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance *for any item for which the deferred maintenance expense or replacement cost is greater than $10,000.* These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost *or deferred maintenance expense* of each reserve item. This subsection does not apply to budgets in which the level of assessments has been guaranteed pursuant to s. 718.116(8) prior to October 1, 1979, provided that the absence of reserves is disclosed to purchasers, or to budgets in which the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

(g) Assessments.—The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than quarterly, in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. *Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses in actions taken pursuant to s. 718.116(4)(a).*

(i) Transfer fees.—No charge shall be made by the association or any body thereof in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws. Any such fee may be preset, but in no event may such

fee exceed $50 *per applicant other than husband/wife or parent/dependent child, which are considered one applicant.* However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made. *Nothing in this paragraph shall be construed to prohibit an association from requiring as a condition to permitting the letting or renting of a unit, when the association has such authority in the documents, the depositing into an escrow account maintained by the association, a security deposit in an amount not to exceed the equivalent of 1 month's rent. The security deposit shall protect against damages to the common elements or association property. Within 15 days after a tenant vacates the premises, the association shall refund the full security deposit or give written notice to the tenant of any claim made against the security. Disputes under this paragraph shall be handled in the same fashion as disputes concerning security deposits under s. 83.49.*

(j) *Fidelity bonds* ~~Bonding of officers and directors.~~—There shall be a provision for the fidelity bonding of all *persons* ~~officers or directors of any association in existence on or after October 1, 1978,~~ who control or disburse funds of the association, in the principal sum of not less than $10,000 for each such *person* ~~officer or director~~. The association shall bear the cost of bonding, *unless otherwise provided by contract between the association and an independent management company.* This paragraph does not apply to any association operating a condominium which consists of 50 or fewer units; however, any condominium association may bond any *persons who control or disburse funds* ~~officer~~ of the association, and the association shall bear the cost of bonding, *unless otherwise provided by contract between the association and an independent management company.*

(l) Arbitration.—There shall be a provision for voluntary binding arbitration of internal disputes arising from the operation of the condominium among *developers,* unit owners, associations, and their agents and assigns.

Section 8. Subsection (4) is added to section 718.3025, Florida Statutes, to read:

718.3025 Agreements for operation, maintenance, or management of condominiums; specific requirements.—

(4) Notwithstanding the fact that certain vendors contract with associations to maintain equipment or property which is made available to serve unit owners, it is the intent of the Legislature that this section applies to contracts for maintenance or management services for which the association pays compensation. This section does not apply to contracts for services or property made available for the convenience of unit owners by lessees or licensees of the association, such as coin operated laundry, food, soft drink, or telephone vendors; cable television operators; retail store operators; businesses; restaurants; or similar vendors.

Section 9. Paragraph (j) is added to subsection (1) of section 718.501, Florida Statutes, to read:

718.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.—

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties:

(j) The division shall adopt uniform accounting principles, policies, and standards to be used by all associations in the preparation and presentation of all financial statements required by this chapter. The principles, policies, and standards shall take into consideration the size of the association and the total revenue collected by the association.

Section 10. Paragraph (a) of subsection (2) of section 718.608, Florida Statutes, is amended to read:

718.608 Notice of intended conversion; time of delivery; content.—

(2)(a) Each notice of intended conversion shall be dated and in writing. The notice shall contain the following statement, with the phrases of the following statement which appear in upper case printed in conspicuous type:

These apartments are being converted to condominium by . . . (name of developer) . . ., the developer.

1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL AGREEMENT AS FOLLOWS:

a. If you have continuously been a resident of these apartments during the last 180 days and your rental agreement expires during the next 270 days, you may extend your rental agreement for up to 270 days after the date of this notice.

b. If you have not been a continuous resident of these apartments for the last 180 days and your rental agreement expires during the next 180 days, you may extend your rental agreement for up to 180 days after the date of this notice.

c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE DATE OF THIS NOTICE.

2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS, you may extend your rental agreement for up to 45 days after the date of this notice while you decide whether to extend your rental agreement as explained above. To do so, you must notify the developer in writing. You will then have the full 45 days to decide whether to extend your rental agreement as explained above.

3. During the extension of your rental agreement you will be charged the same rent that you are now paying.

4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION OF THE RENTAL AGREEMENT AS FOLLOWS:

a. If your rental agreement began or was extended or renewed after *May 1, 1980, and your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less* ~~. . . (effective date of part) . . .~~, you may cancel your rental agreement upon 30 days' written notice and move. Also, upon 30 days' written notice, you may cancel any extension of the rental agreement.

b. If your rental agreement was not begun or was not extended or renewed after *May 1, 1980* ~~. . . (effective date of part)~~ . . ., you may not cancel the rental agreement without the consent of the developer. *If your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less,* you may, however, upon 30 days' written notice cancel any extension of the rental agreement.

5. All notices must be given in writing and sent by mail, return receipt requested, or delivered in person to the developer at this address: . . . (name and address of developer) . . ..

6. If you have continuously been a resident of these apartments during the last 180 days:

a. You have the right to purchase your apartment and will have 45 days to decide whether to purchase. If you do not buy the unit at that price and the unit is later offered at a lower price, you will have the opportunity to buy the unit at the lower price. However, in all events your right to purchase the unit ends when the rental agreement or any extension of the rental agreement ends or when you waive this right in writing.

b. Within 90 days you will be provided purchase information relating to your apartment, including the price of your unit and the condition of the building. If you do not receive this information within 90 days, your rental agreement and any extension will be extended 1 day for each day over 90 days until you are given the purchase information. If you do not want this rental agreement extension, you must notify the developer in writing.

7. If you have any questions regarding this conversion or the Condominium Act, you may contact the developer or the state agency which regulates condominiums: The Division of Florida Land Sales, Condominiums, and Mobile Homes, . . . (Tallahassee address and telephone number of division) . . ..

Section 11. Section 719.103, Florida Statutes, is amended to read:

719.103 Definitions.—As used in this chapter:

(1) "Assessment" means a share of the funds required for the payment of common expenses, which from time to time is assessed against the unit owner.

(2) "Association" means the corporation for profit or not for profit that owns the record interest in the cooperative property or a leasehold of the property of a cooperative and that is responsible for the operation of the cooperative.

(3) "Board of administration" means the board of directors or other *representative* body responsible for administration of the association.

(4) "Bylaws" means the bylaws *of the association existing* ~~for the government of the cooperative, as they exist~~ from time to time.

(5) "Common areas" means the portions of the cooperative property not included in the units.

(6) "Common expenses" means *all* ~~the~~ expenses *and assessments properly incurred by the association for the cooperative* ~~for which the unit owners are liable to the association~~.

(7) "Common surplus" means the excess of all receipts of the association—including, but not limited to, assessments, rents, profits, and revenues on account of the common areas—over the amount of common expenses.

(8) "Cooperative" means that form of ownership of ~~improved~~ real property *wherein legal title is vested in a corporation or other entity and the beneficial use* ~~under which there are units subject to ownership by one or more owners, and the ownership~~ is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

(9) "Cooperative documents" means:

(a) The documents that create a cooperative, including, but not limited to, articles of incorporation of the association, bylaws, and the ground lease or other underlying lease, if any.

(b) The document evidencing a unit owner's membership or share in the association.

(c) The document recognizing a unit owner's title or right of possession to his unit.

(10) "Cooperative parcel" means *the shares or other evidence of ownership in a cooperative representing an* ~~a unit, together with the~~ undivided share in the assets of the association, *together with the lease or other muniment of title or possession* ~~which is appurtenant to the unit~~.

(11) "Cooperative property" means the lands, leaseholds, and personal property *owned by a* ~~subject to~~ cooperative *association* ~~ownership and all other property owned by the association~~.

(12) "Developer" means a person who creates a cooperative or who offers cooperative parcels for sale or lease in the ordinary course of business, but does not include the owner or lessee of a unit who has acquired or leased his unit for his own occupancy, *nor does it include a condominium association which creates a cooperative by conversion of an existing residential condominium after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons.*

(13) "Operation" or "operation of the cooperative" includes the administration and management of the cooperative property.

(14) "Unit" means a part of the cooperative property which is subject to exclusive use and possession. A unit may be improvements, land, or land and improvements together, as specified in the cooperative *documents* ~~documentation~~.

(15) "Unit owner" or "owner of a unit" means the person holding *a share in the cooperative association and* a lease or other muniment of title or possession of a unit that is granted by the association as the owner of the cooperative property.

(16) "Residential cooperative" means a cooperative consisting of cooperative units, any of which are intended for use as a private residence ~~, domicile, or homestead~~. A cooperative is not a residential cooperative if the use of the units is intended as primarily commercial or industrial and not more than three units are intended to be used for private residence, domicile, or homestead, or if the units are intended to be used as housing for maintenance, managerial, janitorial, or other operational staff of the cooperative. If a cooperative is a residential cooperative under this definition, but has units intended to be commercial or industrial, then the cooperative is a residential cooperative with respect to those units intended for use as a private residence, domicile, or homestead, but not a residential cooperative with respect to those units intended for use commercially or industrially.

(17) "Rental agreement" means any written agreement, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises.

(18) "Conspicuous type" means type in capital letters no smaller than the largest type on the page on which it appears.

(19) "Limited common areas" means those common areas which are reserved for the use of a certain cooperative unit or units to the exclusion of other units, as specified in the cooperative documents.

(20) "Common areas" includes within its meaning the following:

(a) The cooperative property which is not included within the units.

(b) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to units and the common areas.

(c) An easement of support in every portion of a unit which contributes to the support of a building.

(d) The property and installations required for the furnishing of utilities and other services to more than one unit or to the common areas.

(e) Any other part of the cooperative property designated in the cooperative documents as common areas.

Section 12. Section 719.1035, Florida Statutes, is created to read:

719.1035 Creation of cooperatives.—The date when cooperative existence shall commence is upon commencement of corporate existence of the cooperative association as provided in s. 607.167.

Section 13. Section 719.104, Florida Statutes, is amended to read:

719.104 Cooperatives; access to units; records; financial reports; *assessments; purchase of leases.*—

(1) *RIGHT OF ACCESS TO UNITS.*—The association has the irrevocable right of access to each unit from time to time during reasonable hours when necessary for the maintenance, repair, or replacement of any structural components of the building or of any mechanical, electrical, or plumbing elements. ~~The access must be~~ necessary to prevent damage to the building or to another unit.

(2) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the association:

1. The plans, permits, warranties, and other items provided by the developer pursuant to s. 719.301(4);

2. A photocopy of the cooperative documents;

3. A copy of the current rules of the association;

4. A book or books containing the minutes of all meetings of the association, of the board of directors, and of the unit owners, which minutes shall be retained for a period of not less than 7 years;

5. A current roster of all unit owners, their mailing addresses, unit identifications, voting certifications, and if known, telephone numbers;

6. All current insurance policies of the association;

7. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility;

8. Bills of sale or transfer for all property owned by the association;

9. Accounting records for the association and separate accounting records for each unit it operates, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but not be limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association.

d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year;

10. Ballots, sign-in sheets, voting proxies, and all other papers relating to elections, which shall be maintained for a period of 1 year from the date of the meeting to which the document relates.

11. All rental records where the association is acting as agent for the rental of units.

(b) The official records of the association shall be maintained in the county in which the cooperative is located.

(c) The official records of the association shall be open to inspection by any association member or the authorized representative of such member at all reasonable times. Failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member.

(3) INSURANCE.—The association shall use its best efforts to obtain and maintain adequate insurance to protect the association property.

~~(2) The association shall maintain accounting records according to generally accepted accounting practices. The records shall be open to inspection by unit owners or their authorized representatives at reasonable times, and written summaries shall be supplied at least annually to unit owners or their authorized representatives. The records shall include:~~

~~(a) A record of all receipts and expenditures.~~

~~(b) An account for each unit, designating the name and address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments are due, the amounts paid upon the account, and the balance due.~~

~~(3) A copy of each insurance policy obtained by the association shall be made available for inspection at reasonable times by unit owners.~~

~~(4) Failure of the association to permit inspection of its records by unit owners or their authorized representatives entitles any unit owners prevailing in an action for enforcement of the right to inspect records to recover reasonable attorney's fees from the association.~~

(4)~~(5)~~ *FINANCIAL REPORT.*—Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

(a) Costs for security;

(b) Professional and management fees and expenses;

(c) Taxes;

(d) Costs for recreation facilities;

(e) Expenses for refuse collection and utility services;

(f) Expenses for lawn care;

(g) Costs for building maintenance and repair;

(h) Insurance costs;

(i) Administrative and salary expenses;

(j) General reserves, maintenance reserves, and depreciation reserves.

(5) ASSESSMENTS.—The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common areas. However, the association may not charge a use fee against the unit owner for the use of common areas unless otherwise provided for in the cooperative documents or by a majority vote of the association or unless the charges relate to expenses incurred by an owner having exclusive use of common areas.

(6) PURCHASE OF LEASES.—The association has the power to purchase any land or recreation lease upon the approval of such voting interest as is required by the cooperative documents. If the cooperative documents make no provision for acquisition of the land or recreational lease, the vote required is that required to amend the cooperative documents to permit the acquisition.

Section 14. Subsection (1) of section 719.105, Florida Statutes, is amended to read:

719.105 Cooperative parcels; appurtenances; possession and enjoyment.—

(1) Each *cooperative parcel* ~~unit~~ has, as appurtenances thereto:

(a) Evidence of membership, ownership of shares, or other interest in the association *with the full voting rights appertaining thereto.*

(b) An undivided share in the assets of the association.

(c) The exclusive right to use that portion of the common areas as may be provided by the cooperative documents.

(d) An undivided share in the common surplus attributable to the unit.

(e) Any other appurtenances provided for in the cooperative documents.

Section 15. Section 719.106, Florida Statutes, is amended to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents *shall provide for* ~~include~~ the following, *and if they do not, they shall be deemed to include the following* ~~provisions~~:

(a) *Administration.*—The form of administration of the association shall be described, *indicating* ~~providing for~~ the titles of the officers and ~~for a~~ board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and board members. *In the absence of such a provision* ~~Unless otherwise provided in the bylaws~~, the board of administration shall be composed of five members, except in the case of cooperatives having five or fewer units, in which case *in not-for-profit corporations, the board shall consist of not fewer than three members* ~~one owner of each unit shall be a member of the board of administration~~. *In the absence of provisions to the contrary* ~~Unless otherwise provided in the bylaws~~, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of those offices customarily performed by officers of corporations ~~, and these officers shall serve without compensation and at the pleasure of the board of administration~~. Unless *prohibited* ~~otherwise provided~~ in the bylaws, the board of administration may appoint ~~and designate~~ other officers and grant them those duties it deems appropriate. *Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board.*

(b) *Quorum; proxies.*—

1. Unless otherwise provided in the bylaws, the percentage of voting interests required to make decisions and constitute a quorum shall be a majority of voting interests, and ~~The owners of a majority of the units constitute a quorum.~~ decisions shall be made by owners of a majority of the *voting interests* ~~units~~ represented at a meeting at which a quorum is present. *Unit owners may vote by proxy.* ~~In addition, provision shall be made in the bylaws for definition and use of proxy. However, no one person may be designated to hold more than five proxies for any purpose unless the cooperative has been registered with the Securities and Exchange Commission.~~

2. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner executing it.

(c) *Notice of meetings.*—Meetings of the board of administration shall be open to all unit owners. *Adequate*~~, and~~ notice of meetings shall be posted in a conspicuous place upon the cooperative property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

(d) *Shareholder meetings.—There shall be an annual meeting of the shareholders* ~~Unit owners shall meet at least once each calendar year, and the meeting shall be the annual meeting~~. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. The bylaws shall not restrict any unit owner desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method for calling ~~the unit owners to~~ meetings, including annual meetings. *Written notice shall be given to each unit owner* ~~The method shall provide at least 14 days' written notice to each unit owner in advance of the meeting and require the posting in a conspicuous place on the cooperative property of a notice of the meeting~~ at least 14 days prior to the *annual* meeting *and shall be posted in a conspicuous place.* Unless a unit owner waives in writing the right to receive notice of the annual meeting ~~by certified mail~~, the notice of the annual meeting shall be sent by ~~certified~~ mail to each unit owner~~, and the mailing constitutes notice~~. *An officer of the association shall provide an affidavit, to be included in the official records of the association, affirming that notices of the association meeting were mailed or hand delivered, in accordance with this provision, to each unit owner at the address last furnished to the association. Any approval by unit owners called for by this chapter, or the applicable cooperative documents, shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable cooperative documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable cooperative documents or any Florida statute which provides for the unit owner action. Unit owners may waive notice of specific meetings if allowed by the applicable cooperative documents or any Florida statute.* ~~These meeting requirements do not prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, if allowed by the bylaws or the other cooperative documents or by this chapter.~~

~~(e) Minutes of all meetings of unit owners and of the board of administration shall be kept in a businesslike manner and shall be available for inspection by unit owners, or their authorized representative, and board members at reasonable times. The association shall retain these minutes for a period of not less than 7 years.~~

(e) Budget procedures.— ~~(f)1. Copies of a proposed annual budget of common expenses shall be mailed to the unit owners not less than 30 days prior to the meeting at which the budget will be considered, together with the notice of that meeting.~~

1.~~2.~~ The board of administration shall mail a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than 30 days prior to the meeting at which the budget will be considered. If the bylaws or other cooperative documents provide that the budget may be adopted by the board of administration, then the unit owners shall be given written notice of the time and place at which the meeting of the board of administration to consider the budget will be held. The meeting shall be open to the unit owners.

2.~~3.~~ If *an adopted* a budget ~~is adopted by the board of administration~~ which requires assessment against the unit owners in any fiscal or calendar year *exceeds* ~~exceeding~~ 115 percent of *the* ~~such~~ assessments for the preceding year, *the board* ~~a special meeting of the unit owners shall be held~~ upon written application of 10 percent of the *voting interests to the board, shall call a special meeting of the unit owners within 30 days, upon not less than 10 days' written notice to each unit owner* ~~unit owners. Not less than 10 days' written notice shall be given to each unit owner, but the meeting shall be held within 30 days of delivery of such application to the board of administration or any member thereof.~~ At the special meeting, unit owners *shall* ~~may~~ consider and enact a ~~revision of the~~ budget. ~~or recall any or all members of the board of administration and elect their successors, unless at that time the developer is in control of the board of administration. In either case,~~ Unless the bylaws ~~shall~~ require a larger vote, the *adoption* ~~revision~~ of the budget ~~or the recall of any or all members of the board of administration~~ shall require a vote of not less than a majority *of all the voting interests* ~~of the whole number of votes of all unit owners~~.

3.~~4.~~ The board of administration may, in any event, propose a budget to the unit owners at a meeting of members or by writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of *all voting interests* ~~their whole number~~ in writing, *the budget shall be adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors shall go into effect as scheduled.* ~~that budget shall not thereafter be examined by the unit owners nor shall the board of administration be recalled under the terms of this section.~~

4.~~5.~~ In determining whether assessments exceed 115 percent of similar assessments for prior years, ~~there shall be excluded from the computation~~ any *authorized provisions* ~~provision~~ for reasonable reserves ~~made by the board of administration~~ for repair or replacement of cooperative property, ~~or for~~ anticipated expenses by the association which are not anticipated to be incurred on a regular or annual basis, *or assessments* ~~and the computation shall not include assessment~~ for betterments to the cooperative property *shall be excluded from computation*~~, if the bylaws so provide or allow the establishment of reserves or assessments for betterments to be imposed by the board of administration~~. However, as long as the developer is in control of the board of administration, the board shall not impose an assessment for any year greater than 115 percent of the prior fiscal or calendar year's assessment without approval of a majority of all *voting interests* ~~unit owners~~.

(f) Recall of board members.—Subject to the provisions of s. 719.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests. A special meeting of the voting interests to recall any member of the board of administration may be called by 10 percent of the unit owners giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.

1. If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall shall be effective immediately, and each recalled member of the board of administration shall turn over to the board any and all records of the association in his possession within 72 hours after the meeting.

2. If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing shall be served on the association by certified mail. The board of administration shall call a meeting of the board within 72 hours after receipt of the agreement in writing and shall either certify the written agreement to recall members of the board, in which case such members shall be recalled effective immediately and shall turn over to the board, within 72 hours, any and all records of the association in their possession, or proceed as described in subparagraph 3.

3. If the board determines not to certify the written agreement to recall members of the board, or if the recall by a vote at a meeting is disputed, the board shall, within 72 hours, file with the division a petition for binding arbitration pursuant to the procedures of s. 719.1255. For purposes of this paragraph, the unit owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member of the board, the recall shall be effective upon service of the final order of arbitration upon the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to s. 718.501. Any member so recalled shall deliver to the board any and all records of the association in his possession within 72 hours of the effective date of the recall.

(g) *Common expenses.*—The manner of collecting from the unit owners their shares of the common expenses shall be stated. Assessments shall be made against unit owners not less frequently than quarterly, in *an amount* ~~amounts~~ no less than *is* ~~are~~ required to provide funds in advance for payment of all of the anticipated current operating expense and for all of the unpaid operating expense previously incurred. *Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses in actions taken pursuant to s. 719.104(4).*

~~(h) If the transfer, lease, or sublease of a unit is subject to approval of any body, no fee may be charged in connection with a transfer or approval in excess of the expenditures reasonably required for the transfer or $50, whichever is less. No charge may be made in connection with an extension or renewal of a lease or sublease.~~

(h)~~(i)~~ *Amendment of bylaws.*—The method by which the bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by owners of not less than two-thirds of the *voting interests* ~~units~~. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw. . . . for present text." Nonmaterial errors or omissions in the bylaw process shall not invalidate an otherwise properly promulgated amendment.

(i) Transfer fees.—No charge may be made by the association or any body thereof in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the cooperative documents. Any such fee may be preset, but in no event shall it exceed $50 per applicant other than husband/wife or parent/dependent child, which are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made. Nothing in this paragraph shall be construed to prohibit an association from requiring as a condition to permitting the letting or renting of a unit, when the association has such authority in the documents, the depositing into an escrow account maintained by the association, a security deposit in an amount not to exceed the equivalent of 1 month's rent. The security deposit shall protect against damages to the common areas or cooperative property. Within 15 days after a tenant vacates the premises, the association shall refund the full security deposit or give written notice to the tenant of any claim made against the security. Disputes under this paragraph shall be handled in the same fashion as disputes concerning security deposits under s. 83.49.

~~(j) The officers and directors of the association have a fiduciary relationship to the unit owners.~~

~~(k) Subject to the provisions of s. 719.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all unit owners. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10 percent of the unit owners giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.~~

(j)~~(l)~~ *Annual budget.—*

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 719.504(20).

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance *for any item for which the deferred maintenance expense or replacement cost is greater than $10,000.* These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost *or deferred maintenance expense* of each reserve item. This subsection shall not apply to any budget in which the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. *If a meeting of the unit owners has been called to determine to provide no reserves, or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.*

(k) Fidelity bonds.—There shall be a provision for the fidelity bonding of all persons who control or disburse funds of the association, in the principal sum of not less than $10,000 for each such person. The association shall bear the cost of bonding, unless otherwise provided by contract between the association and an independent management company. This paragraph does not apply to any association operating a cooperative consisting of 50 units or fewer. However, any cooperative association may bond any persons who control or disburse funds of the association, and the association shall bear the cost of bonding unless otherwise provided by contract between the association and an independent management company.

(l) Arbitration.—There shall be a provision for voluntary binding arbitration of internal disputes arising from the operation of the cooperative among developers, unit owners, associations, and their agents and assigns in accordance with s. 719.1255.

~~(m) The association has the power to purchase any land or recreation lease upon the approval of two-thirds of the unit owners, unless a different number or percentage is provided in the bylaws or other cooperative documents.~~

(2) *OPTIONAL PROVISIONS.*—The bylaws may provide for the following:

(a) *Administrative rules.*—A method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas.

(b) *Use and maintenance restrictions.*—Restrictions on, and requirements *for* ~~respecting~~, the use, ~~and~~ maintenance *and appearance* of the units and the use of the common areas, not inconsistent with the cooperative documents, designed to prevent unreasonable interference with the use of the units and common areas.

(c) *Other matters.*—Other provisions not inconsistent with this chapter or with the cooperative documents as may be desired.

~~(3) Unless otherwise provided in the cooperative documents as originally recorded, no amendment thereto may change the configuration or size of any cooperative unit in any material fashion, materially alter or modify the appurtenances of the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus, unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless all other units approve the amendment.~~

Section 16. Section 719.1065, Florida Statutes, is amended to read:

719.1065 Power of attorney; compliance with chapter.—The use of a power of attorney that affects any aspect of the operation of a cooperative shall be subject to and in compliance with the provisions of this chapter and all cooperative documents, association rules and other rules adopted pursuant to this chapter and all other covenants, conditions and restrictions in force at the time of the execution of the power of attorney.

Section 17. Section 719.107, Florida Statutes, is amended to read:

719.107 Common expenses; assessment.—

(1) Common expenses ~~shall~~ include:

~~(a)~~ the expenses of the operation, maintenance, repair, or replacement of the cooperative property;~~,~~

~~(b)~~ costs of carrying out the powers and duties of the association*; and*

~~(c)~~ any other expense designated as common expense by this chapter or the cooperative documents.

(2) Funds for the payment of common expenses shall be collected by assessments against unit owners in the proportions or percentages of sharing common expenses provided in the cooperative documents.

Section 18. Subsections (1), (3), (4), and (6) of section 719.108, Florida Statutes, are amended and subsections (8) and (9) are added to said section to read:

719.108 Rents and assessments; liability; lien and priority; interest; collection; cooperative ownership.—

(1) A unit owner, regardless of how title is acquired, including, without limitation, a purchaser at a judicial sale, shall be liable for all rents and assessments coming due while he is *in exclusive possession* ~~the owner~~ of a unit. In a voluntary *transfer* ~~conveyance~~, the *unit owner in exclusive possession* ~~grantee~~ shall be jointly and severally liable with the *previous*

unit owner ~~grantor~~ for all unpaid rents and assessments against the *previous unit owner* ~~grantor~~ for his share of the common expenses up to the time of the *transfer* ~~voluntary conveyance~~, without prejudice to the rights of the *unit owner in exclusive possession* ~~grantee~~ to recover from the *previous unit owner* ~~grantor~~ the amounts paid by the *unit owner in exclusive possession* ~~grantee~~ therefor.

(3) ~~Unpaid~~ Rents and assessments, and installments *on them, not paid when due* ~~thereon shall~~ bear interest *at the rate provided in the cooperative documents* from the date due until paid. *This* ~~The~~ rate *may not* ~~shall be as provided in the cooperative documents, not to~~ exceed the ~~maximum lawful~~ rate *allowed by law*, and, if no rate is provided *in the cooperative documents*, then *interest shall accrue at 18 percent per annum* ~~at the legal rate~~.

(4) The association shall have a lien on each cooperative parcel for any unpaid rents and assessments, plus interest, against the unit owner of the cooperative parcel. If authorized by the cooperative documents, said lien shall also secure reasonable attorney's fees incurred by the association incident to the collection of the rents and assessments or enforcement of such lien. *The lien is effective from and after the recording of a claim of lien in the public records in the county in which the cooperative parcel is located which states the description of the cooperative parcel, the name of the unit owner, the amount due, and the due dates. The lien shall expire if a claim of lien is not filed within 1 year after the date the assessment was due, and no such lien shall continue for a longer period than 1 year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is commenced in a court of competent jurisdiction.*

(6) *Within 15 days after request by a unit owner or mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the cooperative parcel. Any person other than the unit owner who relies upon such certificate shall be protected thereby.* ~~Any unit owner has the right to require from the association a certificate showing the amount of unpaid rents and assessments against him with respect to his cooperative parcel. The association is bound by the certificate to any person who relies upon the certificate other than the owner.~~

(8)(a) No unit owner may be excused from the payment of his share of the rents or assessments of a cooperative unless all unit owners are likewise proportionately excused from payment, except as provided in subsection (6) and in the following cases:

1. If the cooperative documents so provide, a developer or other person owning cooperative units offered for sale may be excused from the payment of the share of the common expenses, assessments, and rents related to those units for a stated period of time. The period must terminate no later than the first day of the fourth calendar month following the month in which the right of exclusive possession is first granted to a unit owner. However, the developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners.

2. A developer, or other persons with an ownership interest in cooperative units or having an obligation to pay common expenses, may be excused from the payment of his share of the common expenses which would have been assessed against those units during the period of time that he shall have guaranteed to each purchaser in the purchase contract or in the cooperative documents, or by agreement between the developer and a majority of the unit owners other than the developer, that the assessment for common expenses of the cooperative imposed upon the unit owners would not increase over a stated dollar amount and shall have obligated himself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners.

(b) If the purchase contract, cooperative documents, or agreement between the developer and a majority of unit owners other than the developer provides for the developer or another person to be excused from the payment of assessments pursuant to paragraph (a), no funds receivable from unit owners payable to the association or collected by the developer on behalf of the association, other than regular periodic assessments for common expenses as provided in the cooperative documents and disclosed in the estimated operating budget pursuant to s. 719.503(2)(f) or s. 719.504(20)(b), may be used for payment of common expenses prior to the expiration of the period during which the developer or other person is so excused. This restriction applies to funds including, but not limited to, capital contributions or start-up funds collected from unit purchasers at closing.

(9) The specific purposes of any special assessment approved in accordance with the cooperative documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice or returned to the unit owners. However, upon completion of such specific purposes, any excess funds shall be considered common surplus.

Section 19. Section 719.109, Florida Statutes, is amended to read:

719.109 Right of owners to peaceably assemble.—

(1) All ~~common elements,~~ common areas~~,~~ and recreational facilities serving any cooperative shall be available to unit owners in the cooperative or cooperatives served thereby and their invited guests for the use intended for such ~~common elements,~~ common areas, and recreational facilities. The entity or entities responsible for the operation of the ~~common elements,~~ common areas, and recreational facilities may adopt reasonable rules and regulations pertaining to the use of such ~~common elements,~~ common areas, and recreational facilities. No entity or entities shall unreasonably restrict any unit owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in ~~common elements,~~ common areas, and recreational facilities.

(2) Any owner prevented from exercising rights guaranteed by subsection (1) may bring an action in the appropriate court of the county in which the alleged infringement occurred, and, upon favorable adjudication, the court shall enjoin the enforcement of any provision contained in any cooperative document or rule which operates to deprive the owner of such rights.

Section 20. Section 719.110, Florida Statutes, is amended to read:

719.110 Limitation on actions by association.—The statute of limitations for any actions in law or equity which a ~~condominium association or a~~ cooperative association may have shall not begin to run until the unit owners have elected a majority of the members of the board of administration.

Section 21. Section 719.111, Florida Statutes, is amended to read:

719.111 Attorney's fees.—

~~(1)~~ If a contract or lease between a cooperative unit owner or association and a developer contains a provision allowing attorney's fees to the developer, should any litigation arise under the provisions of the contract or lease, the court shall also allow reasonable attorney's fees to the unit owner or association when the unit owner or association prevails in any action by or against the unit owner or association with respect to the contract or lease.

~~(2) This section shall apply to all contracts in effect on June 19, 1978, and to all contracts entered into after June 19, 1978.~~

Section 22. Section 719.112, Florida Statutes, is amended to read:

719.112 Unconscionability of certain leases; rebuttable presumption.—

(1) The Legislature expressly finds that many leases involving use of recreational or other common facilities by residents of cooperatives were entered into by parties wholly representative of the interests of a cooperative developer at a time when the cooperative unit owners not only did not control the administration of their cooperative but also had little or no voice in such administration. Such leases often contain numerous obligations on the part of either or both a cooperative association and cooperative unit owners with relatively few obligations on the part of the lessor. Such leases may or may not be unconscionable in any given case. Nevertheless, the Legislature finds that a combination of certain onerous obligations and circumstances warrants the establishment of a rebuttable presumption of unconscionability of certain leases, as specified in subsection (2). The presumption may be rebutted by a lessor upon the showing of additional facts and circumstances to justify and validate what otherwise appears to be an unconscionable lease under this section. Failure of a lease to contain all the enumerated elements shall neither preclude a determination of unconscionability of the lease nor raise a presumption as to its conscionability. It is the intent of the Legislature that this section is remedial and does not create any new cause of action to invalidate any cooperative lease, but shall operate as a statutory prescription on procedural matters in actions brought on one or more causes of action existing at the time of the execution of such lease.

(2) A lease pertaining to use by cooperative unit owners of recreational or other common facilities, irrespective of the date on which such lease was entered into, is presumptively unconscionable if all of the following elements exist:

(a) The lease was executed by persons none of whom at the time of the execution of the lease were elected by cooperative unit owners, other than the developer, to represent their interests.

(b) The lease requires either the cooperative association or the cooperative unit owners to pay real estate taxes on the *subject* real property ~~which is the subject of the lease~~.

(c) The lease requires either the cooperative association or the cooperative unit owners to insure buildings or other facilities on the *subject* real property ~~which is the subject of the lease~~ against fire or any other hazard.

(d) The lease requires either the cooperative association or the cooperative unit owners to perform some or all maintenance obligations pertaining to the *subject* real property which is the subject of the lease or facilities located upon *the subject* ~~such~~ real property.

(e) The lease requires either the cooperative association or the cooperative unit owners to pay rent to the lessor for a period of 21 years or more.

(f) The lease provides that failure of the lessee to make payment of rent due under the lease either creates, establishes, or permits establishment of a lien upon individual cooperative units of the cooperative *or upon stock or other ownership interest* to secure claims for rent.

(g) The lease requires an annual rental which exceeds 25 percent of the appraised value of the leased property as improved. For purposes of this paragraph, "annual rental" means the amount due during the first 12 months of the lease for all units, regardless of whether such units were in fact occupied or sold during that period, and "appraised value" means the appraised value placed upon the leased property the first tax year after the sale of a unit in the cooperative.

(h) The lease provides for a periodic rental increase based upon reference to a price index.

(i) The lease or other cooperative documents require that every transferee of a cooperative unit must assume obligations under the lease.

Section 23. Section 719.114, Florida Statutes, is created to read:

719.114 Separate taxation of cooperative parcels; survival of contractural provisions after tax sale.—

(1) Ad valorem taxes and special assessments by taxing authorities shall be assessed against the cooperative parcels and not upon the cooperative property as a whole. No ad valorem tax or special assessment may be separately assessed against common areas if the common areas are owned by the cooperative association or are jointly owned by the owners of the cooperative parcels. Each cooperative parcel shall be separately assessed for ad valorem taxes and special assessments as a single parcel. The taxes and special assessments levied against each cooperative parcel shall constitute a lien only upon the cooperative parcel assessed and upon no other portion of the cooperative property.

(2) All contractual provisions relating to a cooperative parcel which has been sold for taxes or special assessments survive and are enforceable after issuance of a tax deed or master's deed, upon foreclosure of an assessment, a certificate or lien, a tax deed, tax certificate, or tax lien, to the same extent that they would be enforceable against a voluntary grantee of the title immediately prior to the delivery of the tax deed, master's deed, or clerk's certificate of title as provided in s. 197.573.

Section 24. Section 719.1255, Florida Statutes, is created to read:

719.1255 Voluntary arbitration of disputes.—The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation shall employ full-time arbitrators to conduct the binding arbitration hearings provided by this chapter. No person may be employed by the department as a full-time arbitrator unless he is a member in good standing of The Florida Bar. The department shall adopt rules of procedure to govern such binding arbitration hearings. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this section shall be construed to foreclose parties from proceeding in a trial de novo; if such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence. Any party may seek enforcement of the final decision of an arbitrator in a court of competent jurisdiction.

Section 25. Section 719.202, Florida Statutes, is amended to read:

719.202 Sales or reservation deposits prior to closing.—

(1) If a developer contracts to sell a cooperative parcel and the construction, furnishing, and landscaping of the property submitted *or proposed to be submitted* to cooperative ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account ~~established with a bank or trust company having trust powers, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, any financial lending institution having a net worth in excess of $5 million, or a title insurance company authorized to insure title to real property in the State of Florida,~~ all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow agent shall give to the purchaser a receipt for the deposit, upon request. In lieu of the foregoing, the division director shall have the discretion to accept other assurances, including, but not limited to, a surety bond or an irrevocable letter of credit in an amount equal to the escrow requirements of this section. Default determinations and refund of deposits shall be governed by the escrow release provision of this subsection. ~~The escrowed funds may be deposited in separate accounts or in common escrow or trust accounts or commingled with other escrow or trust accounts handled by or received by the escrow agent. The escrow agent may invest the escrow funds in securities of the United States or an agency thereof or in savings or time deposits in institutions insured by an agency of the United States.~~ Funds shall be released from the escrow as follows:

(a) If a buyer properly terminates the contract pursuant to its terms or pursuant to this chapter, the funds shall be paid to the buyer together with any interest earned.

(b) If the buyer defaults in the performance of his obligations under the contract of purchase and sale, the funds shall be paid to the developer together with any interest earned.

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, interest shall be paid to the developer at the closing of the transaction.

(d) If the funds of a buyer have not been previously disbursed in accordance with the provisions of this subsection, they may be disbursed to the developer by the escrow agent at the closing of the transaction, unless prior to the disbursement the escrow agent receives from the buyer written notice of a dispute between the buyer and developer.

(2) All payments in excess of the 10 percent of the sale price described in subsection (1) received prior to completion of construction by the developer from the buyer on a contract for purchase of a cooperative *parcel* shall be held in a special escrow account *established as provided in subsection (1) and controlled by an escrow agent* ~~by the developer or his agent~~ and may not be used by the developer prior to closing the transaction, except as provided in subsection (3) or except for refund to the buyer. If the money remains in this special account for more than 3 months and earns interest, the interest shall be paid as provided in subsection (1).

(3) If the contract for sale of the cooperative so provides, the developer may withdraw escrow funds in excess of 10 percent of the purchase price from the special account required by subsection (2) when the construction of improvements has begun. He may use the funds in the actual construction and development of the cooperative property in which the unit to be sold is located. However, no part of these funds may be used for salaries, commissions, or expenses of salesmen or for advertising purposes. A contract which permits use of the advance payments for these purposes shall include the following legend conspicuously printed or stamped in boldfaced type on the first page of the contract and immediately above the place for signature of the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

(4) "Completion of construction" means issuance of a certificate of occupancy for the entire building or improvement, or the equivalent authorization issued by the governmental body having jurisdiction, and in jurisdictions where no certificate of occupancy or equivalent authorization is issued, it means substantial completion of construction, finishing, and equipping of the building or improvements according to the plans and specifications.

(5) Failure to comply with the provisions of this section renders the contract voidable by the buyer, and, if voided, all sums deposited or advanced under the contract shall be refunded with interest at the highest rate then being paid on savings accounts, excluding certificates of deposit, by savings and loan associations in the area in which the cooperative property is located.

(6) If a developer enters into a reservation agreement, the developer shall pay into an escrow account ~~established with a trust company, a bank having trust powers, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, or a title insurance company authorized to insure title to real property in this state~~ all reservation deposit payments. Reservation deposits shall be payable to the escrow agent, who shall give to the prospective purchaser a receipt for the deposit, acknowledging that the deposit is being held pursuant to the requirements of this subsection. ~~Funds shall not be deposited out of state unless the out-of-state party holding such escrow funds submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow.~~ The funds may be placed in either interest-bearing or non-interest-bearing accounts, provided that the funds shall at all reasonable times be available for withdrawal in full by the escrow agent. The developer shall maintain separate records for each cooperative *parcel* or proposed cooperative *parcel* for which deposits are being accepted. Upon written request to the escrow agent by the prospective purchaser or developer, the fund shall be immediately and without qualification refunded in full to the prospective purchaser. Upon such refund, any interest shall be paid to the prospective purchaser, unless otherwise provided in the reservation agreement. A reservation deposit shall not be released directly to the developer except as a downpayment on the purchase price simultaneously with or subsequent to the execution of a contract. Upon the execution of a purchase agreement for a unit, any funds paid by the purchaser as a deposit to reserve the unit pursuant to a reservation agreement, and any interest thereon, shall cease to be subject to the provisions of this subsection and shall instead be subject to the provisions of subsections (1)-(5).

(7) Any developer who willfully fails to *comply with the provisions of this section concerning establishment of an escrow account or deposit of funds into escrow or withdrawal therefrom* ~~pay all required funds into the escrow accounts required by this section~~ is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *The failure to establish an escrow account or to place funds therein shall be prima facie evidence of an intentional and purposeful violation of this section.*

(8) Each escrow account required by this section shall be established with a bank, a savings and loan association, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, or any financial lending institution having a net worth in excess of $5 million. The escrow agent shall not be located outside the state unless, pursuant to the escrow agreement, the escrow agent submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow. Each escrow agent shall be independent of the developer, and no developer nor any officer, director, affiliate, subsidiary or employee thereof may serve as escrow agent. Escrow funds may be invested only in securities of the United States or any agency thereof or in accounts in institutions the deposits of which are insured by an agency of the United States.

(9) Any developer who is subject to the provisions of this section shall not be subject to the provisions of s. 501.1375.

Section 26. Subsection (1) of section 719.203, Florida Statutes, is amended to read:

719.203 Warranties.—

(1) The developer shall be deemed to have granted to the purchaser of each *parcel* ~~unit~~ an implied warranty of fitness and merchantability for the purposes or uses intended as follows:

(a) As to each unit, a warranty for 3 years commencing with the completion of the building containing the unit.

(b) As to the personal property that is transferred with, or appurtenant to, each unit, a warranty which is for the same period as that provided by the manufacturer of the personal property, commencing with the date of closing of the purchase or the date of possession of the unit, whichever is earlier.

(c) As to all other improvements for the use of unit owners, a 3-year warranty commencing with the date of completion of the improvements.

(d) As to all other personal property for the use of unit owners, a warranty which shall be the same as that provided by the manufacturer of the personal property.

(e) As to the roof and structural components of a building or other improvements and as to mechanical, electrical, and plumbing elements serving improvements or a building, except mechanical elements serving only one unit, a warranty for a period beginning with the completion of construction of each building or improvement and continuing for 3 years thereafter or 1 year after owners other than the developer obtain control of the association, whichever occurs *last, but in no event continuing for more than 5 years* ~~first~~.

(f) As to all other property which is conveyed with a unit, a warranty to the initial purchaser of each unit for a period of 1 year from the date of closing of the purchase or the date of possession, whichever occurs first.

Section 27. Subsections (1) and (4) of section 719.301, Florida Statutes, are amended and subsection (5) is added to said section to read:

719.301 Transfer of association control.—

(1) When unit owners other than the developer own 15 percent or more of the units in a cooperative that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect not less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:

(a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(c) When all the units that will be operated ultimately by the association have been completed, *some have been conveyed to purchasers, and none of the others are being offered for sale by the developer in the ordinary course of business*; or

(d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business,

whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business *at least 5 percent in cooperatives with fewer than 500 units and 2 percent in cooperatives with 500 or more units in a cooperative operated by the association* ~~any unit in a cooperative operated by the association~~.

(4) Prior to, or not more than 60 days after, the time that unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, the developer shall deliver to the association, *at the developer's expense,* all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each cooperative operated by the association:

(a)1. The original or a photocopy of the recorded cooperative documents and all amendments thereto. If a photocopy is provided, it shall be certified by affidavit of the developer, or an officer or agent of the developer, as being a complete copy of the actual recorded cooperative documents.

2. A certified copy of the association's articles of incorporation, or if it is not incorporated, then copies of the documents creating the association.

3. A copy of the bylaws.

4. The minute books, including all minutes, and other books and records of the association, if any.

5. Any house rules and regulations which have been promulgated.

(b) Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.

(c) The financial records, including financial statements of the association, and source documents since the incorporation of the association through the date of turnover. The records shall be reviewed by an independent certified public accountant. The minimum report required shall be a review in accordance with generally accepted accounting standards as defined by rule of the Board of Accountancy. The accountant performing the review shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.

(d) Association funds or control thereof.

(e) All tangible personal property that is property of the association, represented by the developer to be part of the common areas or ostensibly part of the common areas, and an inventory of that property.

(f) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the cooperative and in the construction and installation of all mechanical components serving the improvements and the site, with a certificate in affidavit form of the developer, his agent, or an architect or engineer authorized to practice in this state that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the cooperative property and for the construction and installation of the mechanical components serving the improvements. If the cooperative property has been organized as a cooperative more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph shall not apply.

(g) Insurance policies.

(h) Copies of any certificates of occupancy which may have been issued for the cooperative property.

(i) Any other permits issued by governmental bodies applicable to the cooperative property in force or issued within 1 year prior to the date the unit owners other than the developer take control of the association.

(j) All written warranties of the contractor, subcontractors, suppliers, and manufacturers, if any, that are still effective.

(k) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.

(l) Leases of the common areas and other leases to which the association is a party.

(m) Employment contracts or service contracts in which the association is one of the contracting parties or service contracts in which the association or the unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.

(n) All other contracts to which the association is a party.

(5) If, during the period prior to the time the developer relinquishes control of the association pursuant to subsection (4), any provision of the Cooperative Act or any rule adopted thereunder is violated by the association, the developer shall be responsible for such violation and shall be subject to the administrative action provided in this chapter for such violation, and the developer shall be liable to third parties for such violation. This subsection is intended to clarify existing law.

Section 28. Section 719.302, Florida Statutes, is amended to read:

719.302 Agreements entered into by the association.—

(1) Any grant or reservation made by a cooperative document, lease, or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer, that provides for operation, maintenance, or management of a cooperative association or property serving the unit owners of a cooperative shall be fair and reasonable, and may be canceled by unit owners other than the developer:

(a) If the association operates only one cooperative and the unit owners other than the developer have assumed control of the association, or if unit owners other than the developer own not less than 75 percent of the *voting interests* ~~units~~ in the cooperative, the cancellation shall be by concurrence of the owners of not less than 75 percent of the *voting interests* ~~units~~ other than the *voting interests* ~~units~~ owned by the developer. If a grant, reservation, or contract is so canceled and the unit owners other than the developer have not assumed control of the association, the association shall make a new contract or otherwise provide for maintenance, management, or operation in lieu of the canceled obligation, at the direction of the owners of not less than a majority of the *voting interests* ~~units~~ in the cooperative other than the *voting interests* ~~units~~ owned by the developer.

(b) If the association operates more than one cooperative and the unit owners other than the developer have not assumed control of the association, and if unit owners other than the developer own at least 75 percent of the *voting interests* ~~units~~ in a cooperative operated by the association, any grant, reservation, or contract for maintenance, management, or operation of buildings containing the units in that cooperative or of improvements used only by unit owners of that cooperative may be canceled by concurrence of the owners of at least 75 percent of the *voting interests* ~~units~~ in the cooperative other than the *voting interests* ~~units~~ owned by the developer. No grant, reservation, or contract for maintenance, management, or operation of recreational areas or any other property serving more than one cooperative, and operated by more than one association, may be canceled except pursuant to paragraph (d). ~~If a grant, reservation, or contract is canceled under this provision, the association shall provide for maintenance, management, or operation of the property in a manner consented to by the owners of not less than a majority of the units in the cooperative other than the units owned by the developer.~~

(c) If the association operates more than one cooperative and the unit owners other than the developer have assumed control of the association, the cancellation shall be by concurrence of the owners of not less than 75 percent of the total number of *voting interests* ~~units~~ in all cooperatives operated by the association other than the *voting interests* ~~units~~ owned by the developer.

(d) If the owners of units in a cooperative have the right to use property in common with owners of units in other cooperatives and those cooperatives are operated by more than one association, no grant, reservation, or contract for maintenance, management, or operation of the property serving more than one cooperative may be canceled until unit owners other than the developer have assumed control of all of the associations operating the cooperatives that are to be served by the recreational area or other property, after which cancellation may be effected by concurrence of the owners of not less than 75 percent of the total number of *voting interests* ~~units~~ in those cooperatives other than *voting interests* ~~units~~ owned by the developer.

(2) Any grant or reservation made by a cooperative document, lease, or other document, or any contract made by the developer or association prior to the time unit owners other than the developer elect a majority of the board of administration, which requires the association to purchase cooperative property or to lease cooperative property to another party, shall be deemed ratified unless rejected by a majority of the voting interests of unit owners other than the developer within 18 months after unit owners other than the developer elect a majority of the board of administration. This subsection does not apply to any grant or reservation made by a declaration whereby persons other than the developer, his heirs, assigns, affiliates, directors, officers, or employees are granted the right to use the cooperative property, so long as such persons are obligated to pay, at a minimum, a proportionate share of the cost associated with such property.

(3)~~(2)~~ Any grant or reservation made by a *cooperative document* ~~declaration~~, lease, or other document, and any contract made by an association, whether before or after assumption of control of the association by unit owners other than the developer, that provides for operation, maintenance, or management of a cooperative association or property serving the unit owners of a cooperative shall not be in conflict with the powers and duties of the association or the rights of unit owners as provided in this chapter. This subsection is intended only as a clarification of existing law.

(4)~~(3)~~ Any grant or reservation made by a cooperative document, lease, or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer, shall be fair and reasonable.

(5)~~(4)~~ It is declared that the public policy of this state prohibits the inclusion or enforcement of escalation clauses in management contracts for cooperatives, and such clauses are hereby declared void for public policy. For the purposes of this section, an escalation clause is any clause in a cooperative management contract which provides that the fee under the contract shall increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.

(6)~~(5)~~ Any action to compel compliance with the provisions of this section or of s. 719.301 may be brought pursuant to the summary procedure provided for in s. 51.011. In any such action brought to compel compliance with the provisions of s. 719.301, the prevailing party shall be entitled to recover reasonable attorney's fees.

Section 29. Subsection (1) of section 719.303, Florida Statutes, is amended and subsection (3) is added to said section to read:

719.303 Obligations of owners.—

(1) Each unit owner and each association shall be governed by, and shall comply with the provisions of, this chapter, the cooperative documents, the documents creating the association, and the association bylaws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them prior to the time control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

The prevailing party *in any such action in which the purchaser claims a right of voidability based upon contractual provisions as required in s. 719.503(1)(a)* is entitled to recover reasonable attorney's fees. This relief does not exclude other remedies provided by law.

(3) If the cooperative documents so provide, the association may levy reasonable fines against a unit owner for failure of the unit owner, his licensee or invitee or the unit's occupant to comply with any provision of the cooperative documents or reasonable rules of the association. No fine shall exceed $50 nor shall any fine be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, his licensee or invitee. This subsection does not apply to unoccupied units.

Section 30. Section 719.304, Florida Statutes, is amended to read:

719.304 Association's right to amend cooperative documents.—

(1) If there is an omission or error in any cooperative document, or in other documents required by law to establish the cooperative, the association may correct the error or omission by an amendment to the cooperative document, or the other documents required to create a cooperative, in the manner provided in the *document* ~~declaration~~ to amend the *document* ~~declaration~~, or, if none is provided, then by vote of a majority of the *voting interests* ~~unit owners~~. The amendment is effective when passed and approved. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of unit owners, unless the affected owners consent in writing. This subsection does not restrict the powers of the association to otherwise amend the cooperative documents, or other documentation, but authorizes a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors, or omissions when the property rights of unit owners are not materially or adversely affected.

(2) If there is an omission or error in a cooperative document, or other documents required to establish the cooperative, which would affect the valid existence of the cooperative and which may not be corrected by the amendment procedures in the cooperative documents or this chapter, then the circuit courts have jurisdiction to entertain petitions of one or more of the unit owners therein, or of the association, to correct the error or omission, and the action may be a class action. The court may require that one or more methods of correcting the error or omission be submitted to the unit owners to determine the most acceptable correction. All unit owners and the association *and mortgagees of a first mortgage of record* must be joined as parties to the action. Service of process on owners may be by publication, but the plaintiff shall furnish all unit owners not personally served with process with copies of the petition and final decree of the court by certified mail, return receipt requested, at their last known residence address. If an action to determine whether the cooperative documents or other documents comply with the mandatory requirements for the formation of a cooperative contained in this chapter is not brought within 3 years of the filing of the cooperative documents, the cooperative documents and other documents shall be effective under this chapter to create a cooperative, whether or not the documents substantially comply with the mandatory requirements of this chapter. However, both before and after the expiration of this 3-year period, circuit courts have jurisdiction to entertain petitions permitted under this subsection for the correction of the documentation, and other methods of amendment may be utilized to correct the errors or omissions at any time.

Section 31. Section 719.401, Florida Statutes, is amended to read:

719.401 Leaseholds.—A cooperative may be created on lands held ~~by a developer~~ under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold, if, on the date the first unit is conveyed by the developer to a bona fide purchaser, the lease has an unexpired term of at least 50 years. If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(1) The leased land must be identified by a description that is sufficient to pass title, and the leased personal property must be identified by a general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility. In the alternative, the personal property may be identified by a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility. Unless the lease is of a unit, the identification of the land shall be supplemented by a survey showing the relation of the leased land to the land included in the common areas. This provision shall not prohibit adding additional land or personal property in accordance with the terms of the lease, provided there is no increase in rent or material increase in maintenance costs to the individual unit owner.

(2) The lease shall not contain a reservation of the right of possession or control of the leased property by the lessor or any person other than unit owners or the association, and shall not create rights to possession or use of the leased property in any parties other than the association or unit owners of the cooperative to be served by the leased property, unless the reservations and rights created are conspicuously disclosed. Any provision for use of the leased property by anyone other than unit owners of the cooperatives to be served by the leased property shall require the other users to pay a fair and reasonable share of the maintenance and repair obligations and other exactions due from users of the leased property.

(3) The lease shall state the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease and the maximum number of units that will be served by the leased property. The limitation of the number of units to be served shall not preclude enlargement of the facilities leased and an increase in their capacity, if approved by the association operating the leased property after unit owners other than the developer have assumed control of the association. *This subsection does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or any political subdivision thereof.*

(4)(a) In any action by the lessor to enforce a lien for rent payable or in any action by the association or a unit owner with respect to the obligations of the lessee or the lessor under the lease, the unit owner or the association may raise any issue or interpose any defenses, legal or equitable, that he or it may have with respect to the lessor's obligations under the lease. If the unit owner or the association initiates any action or interposes any defense other than payment of rent under the lease, the unit owner or the association shall, upon service of process upon the lessor, pay into the registry of the court any allegedly accrued rent and the rent which accrues during the pendency of the proceeding, when due. If the unit owner or the association fails to pay the rent into the registry of the

court, it shall constitute an absolute waiver of the unit owner's or association's defenses other than payment, and the lessor shall be entitled to default. The unit owner or the association shall notify the lessor of any deposits. When the unit owner or the association has deposited the required funds into the registry of the court, the lessor may apply to the court for disbursement of all or part of the funds shown to be necessary for the payment of taxes, mortgage payments, maintenance and operating expenses, and other necessary expenses incident to maintaining and equipping the leased facilities or necessary for the payment of other expenses arising out of personal hardship resulting from the loss of rental income from the leased facilities. The court, after an evidentiary hearing, may award all or part of the funds on deposit to the lessor for such purpose. The court shall require the lessor to post bond or other security, as a condition to the release of funds from the registry, when the value of the leased land and improvements, apart from the lease itself, is inadequate to fully secure the sum of existing encumbrances on the leased property and the amounts released from the court registry.

(b) When the association or unit owners have deposited funds into the registry of the court pursuant to this subsection, and the unit owners and association have otherwise complied with their obligations under the lease or agreement, other than paying rent into the registry of the court rather than to the lessor, the lessor cannot hold the association or unit owners in default on their rental payments nor may the lessor file liens or initiate foreclosure proceedings against unit owners. If the lessor, in violation of this subsection, attempts such liens or foreclosures, then the lessor may be liable for damages plus attorney's fees and costs which the association or unit owners incurred in satisfying those liens or foreclosures.

(c) Nothing in this subsection ~~enacted to be effective October 1, 1979,~~ shall affect litigation commenced prior to *October 1, 1979* ~~such date~~.

(5) If the lease is of recreational facilities or other commonly used facilities that are not completed, rent shall not commence until some of the facilities are completed. Until all of the facilities leased are completed, rent shall be prorated and paid only for the completed facilities in the proportion that the value of the completed facilities bears to the estimated value, when completed, of all of the facilities that are leased. The facilities shall be complete when they have been constructed, finished, and equipped and are available for use.

(6)(a) A lease of recreational or other commonly used facilities entered into by the association or unit owners prior to the time the control of the association is turned over to unit owners other than the developer shall grant to the lessee an option to purchase the leased property, payable in cash on any anniversary date of the beginning of the lease term after the 10th anniversary, at a price then determined by agreement. If there is no agreement as to the price, then the price shall be determined by arbitration.

(b) If the lessor wishes to sell his interest and has received a bona fide offer to purchase it, the lessor shall send the association and each unit owner a copy of the executed offer. For 90 days following receipt of the offer by the association or unit owners, the association or unit owners have the option to purchase the interest on the terms and conditions in the offer. The option shall be exercised, if at all, by notice in writing given to the lessor within the 90-day period. If the association or unit owners do not exercise the option, the lessor shall have the right, for a period of 60 days after the 90-day period has expired, to complete the transaction described in the offer to purchase. If for any reason such transaction is not concluded within the 60 days, the offer shall have been abandoned, and the provisions of this subsection shall be reimposed.

(c) The option shall be exercised upon approval by owners of two-thirds of the units served by the leased property.

(d) The provisions of this subsection shall not apply to a nonresidential cooperative and shall not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or, in the case of an underlying land lease, a person or entity which is not the developer or directly or indirectly owned or controlled by the developer and did not obtain, directly or indirectly, ownership of the leased property from the developer.

(7) The lease or a subordination agreement executed by the lessor must provide either:

(a) That any lien which encumbers a unit for rent or other moneys or exactions payable is subordinate to any mortgage held by an institutional lender, or

(b) That, upon the foreclosure of any mortgage held by an institutional lender or upon delivery of a deed in lieu of foreclosure, the lien for the unit owner's share of the rent or other exactions shall not be extinguished, but shall be foreclosed and unenforceable against the mortgagee with respect to that unit's share of the rent and other exactions which mature or become due and payable on or before the date of the final judgment of foreclosure, in the event of foreclosure, or on or before the date of delivery of the deed in lieu of foreclosure. The lien may, however, automatically and by operation of the lease or other instrument, reattach to the unit and secure the payment of the unit's proportionate share of the rent or other exactions coming due subsequent to the date of final decree of foreclosure or the date of delivery of the deed in lieu of foreclosure. *This subsection does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or political subdivision thereof.*

(8)*(a)* It is declared that the public policy of this state prohibits the inclusion or enforcement of escalation clauses in land leases or other leases or agreements for recreational facilities, land, or other commonly used facilities serving residential cooperatives, and such clauses are hereby declared void for public policy. For the purposes of this section, an escalation clause is any clause in a cooperative lease or agreement which provides that the rental under the lease or agreement shall increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.

(b) This subsection does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or political subdivision thereof.

(9) If rent under the lease is a fixed amount for the full duration of the lease and the rent thereunder is payable by the association or the unit owners, the division director shall have the discretion to accept alternative assurances sufficient to secure the payment of rent, including, but not limited to, annuities with an insurance company authorized to do business in this state, the beneficiary of which shall be the association, or, cash deposits in trust, the beneficiary of which shall be the association, which deposit shall be at an amount sufficient to generate interest sufficient to meet lease payments as they occur. If alternative assurances are accepted by the division director, the following apply:

(a) Disclosures contemplated by subsection (2), if not contained within the lease, may be made by the developer.

(b) Disclosures as to the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease, and the maximum number of units that will be served by the leased property, if not contained in the lease, may be stated by the developer.

(c) The provisions of subsections (4) and (5) apply, but need not be stated in the lease.

(d) The provisions of subsection (7) do not apply.

Section 32. Section 719.403, Florida Statutes, is amended to read:

719.403 Phase cooperatives.—

(1) A developer may develop a cooperative in phases, if the original cooperative documents *or an amendment to the cooperative documents approved by the unit owners and unit mortgagees* ~~submitting the initial phase to cooperative ownership~~ provide for and describe in detail all anticipated phases, the impact, if any, which the completion of subsequent phases would have upon the initial phase, and the time period within which *all phases must be added to the cooperative and must comply with the requirements of this section or the right to add additional phases shall expire* ~~each phase must be completed~~.

(2) The original cooperative documents shall describe:

(a) The land which may become part of the cooperative and the land on which each phase is to be built. The descriptions shall include metes and bounds or other legal descriptions of the land for each phase, plot plans, and surveys. *Plot plans, attached as an exhibit, must show the approximate location of all existing and proposed buildings and improvements that may ultimately be contained within the cooperative. The plot plan may be modified by the developer as to unit or building types to the extent that such changes are described in the cooperative documents. If provided in the cooperative documents, the developer may make nonmaterial changes in the legal description of a phase.*

(b) The *minimum and maximum* number and general size of units to be included in each phase. *The general size may be expressed in terms of minimum and maximum square feet. In stating the minimum and maximum number of units, the difference between the minimum and maximum numbers shall not be greater than 20 percent of the maximum.*

(c) Each unit's percentage ownership in the common areas as each phase is added. *In lieu of specific percentages, a formula for reallocating each unit's proportion or percentage of ownership in the common areas and manner of sharing common expenses and owning common surplus as additional units are added to the cooperative by the addition of any land may be described. The basis for allocating percentage ownership of units in phases added shall be consistent with the basis for allocation made among the units originally in the cooperative.*

(d) The recreation areas and facilities to be owned as common areas by all unit owners and all personal property to be provided *as each phase is added to the cooperative,* and those facilities or areas which may not be built or provided if any phase or phases are not developed and added as a part of the cooperative. *The developer may reserve the right to add additional common area recreational facilities if the original cooperative documents contain a description of each type of facility and its proposed location. The cooperative documents shall set forth the circumstances under which such facilities will be added.*

(e) The membership vote and ownership in the association attributable to each unit in each phase and the results if any phase or phases are not developed and added as a part of the cooperative.

(f) Whether or not time-share estates will or may be created with respect to units in any phase, and if so, the degree, quantity, nature, and extent of such estates, specifying the minimum duration of the recurring periods of rights of use, possession, or occupancy that may be established with respect to any unit.

(3) The developer shall notify owners of existing units of the commencement of, or the decision not to add, one or more additional phases. Notice shall be by certified mail addressed to each owner at the address of his unit or at his last known address.

(4) If one or more phases are not built, the units which are built are entitled to 100 percent ownership of all common areas within the phases actually developed and added as a part of the cooperative.

(5) If the cooperative documents require the developer to convey any additional lands or facilities to the cooperative after the completion of the first phase and he fails to do so within the time specified, or within a reasonable time if none is specified, then any owner of a unit or the association may enforce such obligations against the developer or bring an action against the developer for damages caused by the developer's failure to convey to the association such additional lands or facilities.

(6) *Notwithstanding any other provisions of this chapter, any amendments by the developer adding any land to the cooperative shall be consistent with the provisions of the cooperative documents granting such right and shall contain or provide for the following matters:*

(a) The legal description of the land being added to the cooperative.

(b) An identification by letter, name or number, or a combination thereof, of each unit within the land added to the cooperative, to ensure that no unit in the cooperative, including the additional land, will bear the same designation as any other unit.

(c) A survey of the additional land and graphic description of the improvements in which any units are located and a plot plan thereof, and a certificate of surveyor, in conformance with s. 719.1035(4)(e).

(d) The undivided share in the common areas appurtenant to each unit in the cooperative stated as percentages or fractions which, in the aggregate, must equal the whole and must be determined in conformance with the manner of allocation set forth in the original cooperative documents.

(e) The proportions or percentages and the manner of sharing common expenses and owning common surplus which for residential units must be the same as the undivided share in the common areas. Amendments adding phases to a cooperative shall not require the execution of such amendments or consents thereto by unit owners other than the developer, *unless the amendment permits the creation of time-share estates in any unit of the additional phase of the condominium and such creation is not authorized by the original declaration.*

Section 33. Subsection (1) of section 719.501, Florida Statutes, is amended to read:

719.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.—

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units. In performing its duties, the division shall have the following powers and duties:

(a) The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms hereunder.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or rule promulgated pursuant hereto has occurred, the division may institute enforcement proceedings in its own name against a developer or association, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer or association, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter.

3. The division may bring an action in circuit court *on behalf of a class of unit owners, lessees, or purchasers* for declaratory relief, *injunctive relief, or restitution.*

4. The division may impose a civil penalty against a developer or association, or its assignees or agents, for any violation of this chapter or a rule promulgated pursuant hereto. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed $5,000. All amounts collected shall be deposited with the Treasurer to the credit of the Florida Condominiums Trust Fund. If a developer fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(e) The division is authorized to prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential cooperatives in assessing the rights, privileges, and duties pertaining thereto.

(f) The division is authorized to promulgate rules, pursuant to chapter 120, necessary to implement, enforce, and interpret this chapter.

(g) The division shall establish procedures for providing notice to an association when the division is considering the issuance of a declaratory statement with respect to the cooperative documents governing such cooperative community.

(h)~~(g)~~ The division shall furnish each association which pays the fees required by paragraph (2)(a) a copy of this act and the rules promulgated pursuant thereto.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of cooperatives which were rendered by the division during the previous year.

Section 34. Subsection (2) of section 719.502, Florida Statutes, is amended to read:

719.502 Filing prior to sale or lease.—

(2)(a) Prior to filing as required by subsection (1), a developer shall not offer a contract for purchase or lease of a unit for more than 5 years but may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the Division of Florida Land Sales, Condominiums, and Mobile Homes. Reservations shall not be taken on a proposed cooperative unless the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies contained therein. Such notification shall not preclude the determination of reservation filing deficiencies at a later date, nor shall it relieve the developer of any responsibility under the law. The escrow agreement and the reservation agreement form shall include a statement of the right of the prospective purchaser to an immediate unqualified refund of the reservation deposit moneys upon written request to the escrow agent by the prospective purchaser or the developer.

(b) The executed escrow agreement signed by the developer and the escrow agent shall contain the following information:

1. A statement that the escrow agent will grant a prospective purchaser an immediate, unqualified refund of the reservation deposit moneys upon written request either directly to the escrow agent or to the developer.

2. A statement that the escrow agent is responsible for not releasing moneys directly to the developer except as a downpayment on the purchase price at the time a contract is signed by the purchaser, *if provided for in the contract.*

(c) The reservation agreement form shall include the following:

1. A statement of the obligation of the developer to file cooperative documents with the division prior to entering into a binding purchase or lease agreement for more than 5 years.

2. A statement of the right of the prospective purchaser to receive all cooperative documents as required by this chapter.

3. The name and address of the escrow agent ~~and a statement that the prospective purchaser may obtain a receipt from the agent upon request.~~

4. A statement as to whether the developer assures that the purchase price represented in or pursuant to the reservation agreement will be the price in the contract for purchase and sale or that the price represented may be exceeded within a stated amount or percentage or that no assurance is given as to the price in the contract for purchase and sale.

5. A statement that the deposit must be payable to the escrow agent and that the escrow agent must provide a receipt to the prospective purchaser.

Section 35. Paragraph (a) of subsection (1) of section 719.503, Florida Statutes, is amended to read:

719.503 Disclosure prior to sale.—

(1) CONTENTS OF CONTRACTS.—Any contracts for the sale of a unit or a lease thereof for an unexpired term of more than 5 years shall contain:

(a) The following legend in conspicuous type: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES. *THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT.* BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

Section 36. Paragraph (b) of subsection (4) and subsections (14) and (24) of section 719.504, Florida Statutes, are amended, and subsection (25) is added to said section, to read:

719.504 Prospectus or offering circular.—Every developer of a residential cooperative which contains more than 20 residential units, or which is part of a group of residential cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales, Condominiums, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. The prospectus or offering circular may include more than one cooperative, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(4) Beginning on the first page of the text (not including the summary and index), a description of the cooperative, including, but not limited to, the following information:

(b) A description of the cooperative property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, *if the cooperative is not a phase cooperative. If the cooperative is a phase cooperative, the maximum number of buildings that may be contained within the cooperative, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the cooperative.*

2. The page in the cooperative documents where a copy of the survey and plot plan of the cooperative is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, a statement that the estimated date of completion of the cooperative is in the purchase agreement and a reference to the article or paragraph containing that information.

(14) If the cooperative is part of a phase project, *the following shall be stated:*

(a) A statement in conspicuous type in substantially the following form shall be included: THIS IS A PHASE COOPERATIVE. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration providing for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the cooperative may be substantially different from the residential buildings and units originally in the cooperative, and, if the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPER-

ATIVE MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE COOPERATIVE. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the cooperative ~~there shall be a statement to that effect and a complete description of the phasing~~.

(24) Any prospectus or offering circular complying with the provisions of former ss. 711.69 and 711.802 ~~prior to the effective date of this act~~ may continue to be used without amendment, or may be amended to comply with the provisions of this chapter.

(25) A brief narrative description of the location and effect of all existing and intended easements located or to be located on the cooperative property other than those in the declaration.

Section 37. Subsection (1) of section 719.506, Florida Statutes, is amended to read:

719.506 Publication of false and misleading information.—

(1) Any person who, in reasonable reliance upon any material statement or information that is false or misleading and published by or under authority from the developer in advertising and promotional materials, including, but not limited to, a prospectus, the items required as exhibits to a prospectus, brochures, and newspaper advertising, pays anything of value toward the lease of a cooperative parcel located in this state shall have a cause of action to rescind the contract or collect damages from the developer for his loss prior to the closing of the transaction. After the closing of the transaction, the lessee shall have a cause of action against the developer for damages under this section from the time of closing until 1 year after the date upon which the last of the events described in paragraphs (a) through (d) shall occur:

(a) The closing of the transaction;

(b) The first issuance by the applicable governmental authority of a certificate of occupancy or other evidence of sufficient completion of construction of the building containing the unit to allow lawful occupancy of the unit. In counties or municipalities in which certificates of occupancy or other evidences of completion sufficient to allow lawful occupancy are not customarily issued, for the purpose of this section, evidence of lawful occupancy shall be deemed *to be* given or issued upon the date that such lawful occupancy of the unit may first be allowed under prevailing applicable laws, ordinances, or statutes;

(c) The completion by the developer of the common areas and such recreational facilities, whether or not the same are common areas, which the developer is obligated to complete or provide under the terms of the written contract or written agreement for purchase or lease of the unit; or

(d) In the event there shall not be a written contract or agreement for sale or lease of the unit, then the completion by the developer of the common areas and such recreational facilities, whether or not the same are common areas, which the developer would be obligated to complete under any rule of law applicable to the developer's obligation.

Under no circumstances shall a cause of action created or recognized under this section survive for a period of more than 5 years after the closing of the transaction.

Section 38. Subsection (3) of section 719.606, Florida Statutes, is amended to read:

719.606 Conversion of existing improvements to cooperative; rental agreements.—When existing improvements are converted to ownership as a residential cooperative:

(3) After the date of a notice of intended conversion, a tenant may terminate *any* ~~the~~ rental agreement, or any extension period *having an unexpired term of 180 days or less*, upon 30 days' written notice to the developer. However, unless the rental agreement was entered into, extended, or renewed after the effective date of this part, the tenant may not unilaterally terminate the rental agreement but may unilaterally terminate any extension period *having an unexpired term of 180 days or less* upon 30 days' written notice.

Section 39. Paragraph (a) of subsection (2) of section 719.608, Florida Statutes, is amended to read:

719.608 Notice of intended conversion; time of delivery; content.—

(2)(a) Each notice of intended conversion shall be dated and in writing. The notice shall contain the following statement, with the phrases of the following statement which appear in upper case printed in conspicuous type:

These apartments are being converted to cooperative by . . . (name of developer) . . ., the developer.

1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL AGREEMENT AS FOLLOWS:

a. If you have continuously been a resident of these apartments during the last 180 days and your rental agreement expires during the next 270 days, you may extend your rental agreement for up to 270 days after the date of this notice.

b. If you have not been a continuous resident of these apartments for the last 180 days and your rental agreement expires during the next 180 days, you may extend your rental agreement for up to 180 days after the date of this notice.

c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE DATE OF THIS NOTICE.

2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS, you may extend your rental agreement for up to 45 days after the date of this notice while you decide whether to extend your rental agreement as explained above. To do so, you must notify the developer in writing. You will then have the full 45 days to decide whether to extend your rental agreement as explained above.

3. During the extension of your rental agreement you will be charged the same rent that you are now paying.

4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION OF THE RENTAL AGREEMENT AS FOLLOWS:

a. If your rental agreement began or was extended or renewed after *May 1, 1980, and your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less* ~~. . . (effective date of part) . . .~~, you may cancel your rental agreement upon 30 days' written notice and move. Also, upon 30 days' written notice, you may cancel any extension of the rental agreement.

b. If your rental agreement was not begun or was not extended or renewed after *May 1, 1980* ~~. . . (effective date of part)~~ . . ., you may not cancel the rental agreement without the consent of the developer. *If your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less,* you may, however, upon 30 days' written notice cancel any extension of the rental agreement.

5. All notices must be given in writing and sent by mail, return receipt requested, or delivered in person to the developer at this address: . . . (name and address of developer) . . ..

6. If you have continuously been a resident of these apartments during the last 180 days:

a. You have the right to purchase your apartment and will have 45 days to decide whether to purchase. If you do not buy the unit at that price and the unit is later offered at a lower price, you will have the opportunity to buy the unit at the lower price. However, in all events your right to purchase the unit ends when the rental agreement or any extension of the rental agreement ends or when you waive this right in writing.

b. Within 90 days you will be provided purchase information relating to your apartment, including the price of your unit and the condition of the building. If you do not receive this information within 90 days, your rental agreement and any extension will be extended 1 day for each day over 90 days until you are given the purchase information. If you do not want this rental agreement extension, you must notify the developer in writing.

7. If you have any questions regarding this conversion or the Cooperative Act, you may contact the developer or the state agency which regu-

lates cooperatives: The Division of Florida Land Sales, Condominiums, and Mobile Homes, . . . (Tallahassee address and telephone number of division) . . ..

Section 40. Subsection (1) of section 719.61, Florida Statutes, is amended to read:

719.61 Notices.—

(1) All notices from tenants to a developer shall be deemed given when deposited in the United States mail, addressed to the developer's address as stated in the notice of conversion, and sent ~~by mail,~~ postage prepaid, return receipt requested, or when personally delivered in writing by the tenant to the developer at such address. The date of a notice is the date when it is mailed or personally delivered by the tenant.

Section 41. Paragraph (c) of subsection (1) and subsection (2) of section 719.612, Florida Statutes, are amended to read:

719.612 Right of first refusal.—

(1) Each tenant, who for the 180 days preceding a notice of intended conversion has been a residential tenant of the existing improvements, shall have the right of first refusal to purchase the unit in which he resides on the date of the notice, under the following terms and conditions:

(c) If, after any right of first refusal has expired, the developer offers the unit at a price lower than that offered to the tenant, the developer shall in writing notify the tenant prior to the publication of the offer. The tenant shall have the right of first refusal at the lower price for a period of not less than an additional 10 days after the date of the notice. Thereafter, the tenant shall have no additional right of first refusal. As used in this paragraph, "offer" includes any solicitation to the general public by means of newspaper advertisement, radio, television, or written or printed sales literature or price list, *but shall not include a transaction involving the sale of more than one unit to one purchaser.*

(2) Prior to closing on the sale of the unit, a tenant alleging a developer's violation of paragraph (1)(c) may bring an action for equitable or other relief, including specific performance. Subsequent to closing, the tenant's sole remedy for such a violation shall be damages. In addition to any damages otherwise recoverable by law, the tenant shall be entitled to an amount equal *to* the difference between the price last offered in writing to the tenant pursuant to this section and the price at which the unit was sold to a third party, plus court costs and attorney's fees.

Section 42. Subsection (3) of section 719.616, Florida Statutes, is amended to read:

719.616 Disclosure of condition of building and estimated replacement costs.—

(3)(a) Disclosure of condition shall be made for each of the following components that the existing improvements may include:

1. Roof.

2. Structure.

3. Fireproofing and fire protection systems.

4.~~2.~~ Elevators.

5.~~3.~~ Heating and cooling systems.

6.~~4.~~ Plumbing.

7.~~5.~~ Electrical systems.

8.~~6.~~ Swimming pool.

9.~~7.~~ Seawalls.

10.~~8.~~ Pavement and parking areas.

11.~~9.~~ Drainage systems.

(b) For each component, the following information shall be disclosed and substantiated by attaching a copy of a certificate under seal of an architect or engineer authorized to practice in this state:

1. The age of the component.

2. The estimated remaining useful life of the component.

3. The estimated current replacement cost of the component, expressed:

a. As a total amount, and

b. As a per unit amount, based upon each unit's proportional share of the common expenses.

4. The structural *and functional* soundness of the component.

Section 43. Subsection (7) of section 719.618, Florida Statutes, is amended to read:

719.618 Converter reserve accounts; warranties.—

(7) A developer makes no implied warranties when existing improvements are converted to ownership as a residential cooperative and reserve accounts are funded in accordance with this section. As an alternative to establishing such reserve accounts, or when a developer fails to establish the reserve accounts in accordance with this section, the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended, as to the roof and structural components of the improvements; as to fireproofing and fire protection systems; and as to mechanical, electrical, and plumbing elements serving the improvements, except mechanical elements serving only one unit. The warranty shall be for a period beginning with the notice of intended conversion and continuing for 3 years thereafter, or the recording of the declaration to cooperative and continuing for 3 years thereafter, or 1 year after owners other than the developer obtain control of the association, whichever occurs last, but in no event more than 5 years.

(a) The warranty provided for in this section is conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(b) The warranty shall inure to the benefit of each owner and successor owner.

~~(c) Nothing in this section affects conversions of existing improvements for which the developer has filed with the division prior to May 1, 1980.~~

(c)~~(d)~~ Existing improvements converted to residential cooperative may be covered by an insured warranty program underwritten by an insurance company authorized to do business in this state, if such warranty program meets the minimum requirements of this chapter. To the degree that the warranty program does not meet the minimum requirements of this chapter, such requirements shall apply.

Section 44. Section 718.302(1)(e), Florida Statutes, is hereby repealed.

Section 45. This act shall take effect October 1, 1986 except that this section and the amendments to s. 514.0115, Florida Statutes, contained in section 1, shall take effect upon becoming a law.

Amendment 2—On page 1, in the title, lines 2-31, and on page 2, lines 1-31, and on page 3, lines 1-26, strike all of said lines and insert: An act relating to consumer housing regulated by the Department of Business Regulation; amending s. 514.0115, F.S.; exempting pools serving certain condominiums and cooperatives from supervision and regulation under ch. 514, F.S., except for water quality; amending s. 194.011, F.S.; allowing a condominium association to file with the property appraisal adjustment board a joint petition on behalf of certain association members; amending s. 194.013, F.S.; providing that the board may charge a fee for filing joint petitions based on costs; amending s. 194.034, F.S.; providing additional procedures for hearing joint petitions; creating s. 718.1035, F.S.; providing that the use of a power of attorney that affects any aspect of the operation of a condominium shall be subject to certain requirements; amending s. 718.111, F.S.; authorizing the condominium association to defend actions in eminent domain or bring actions for inverse condemnation; revising language with respect to official records; amending s. 718.112, F.S.; revising language with respect to bylaws, the annual budget of common expenses of a condominium with respect to reserve accounts for deferred maintenance, assessments, transfer fees, fidelity bonds, and arbitration; authorizing the acceleration of assessments under certain circumstances; providing for fidelity bonds; amending s. 718.3025, F.S., relating to operation, maintenance, or management; amending s. 718.501, F.S., relating to powers and duties of the division; amending s. 718.608, F.S., relating to notice of conversion and time of delivery; amending s.

719.103, F.S., relating to definitions; amending s. 719.104, F.S.; providing for required official records with respect to cooperative associations; amending s. 719.105, F.S., relating to cooperative parcels; amending s. 719.106, F.S.; revising language with respect to the annual budget of common expenses of a cooperative with respect to reserve accounts for deferred maintenance; providing for priority of liens; creating s. 719.1065, F.S.; providing that the use of a power of attorney that affects any aspect of the operation of a cooperative shall be subject to certain requirements; amending s. 719.107, F.S., relating to common expenses; amending s. 719.108, F.S., relating to rent and assessment; amending s. 719.109, F.S., relating to rights of owners to peaceably assemble; amending s. 119.110, F.S., relating to limitation on actions by association; amending s. 719.111, F.S., relating to attorney's fees; amending s. 719.112, F.S., relating to unconscionable leases; creating s. 719.114, F.S., relating to separate taxation of parcels; creating s. 719.1255, F.S., relating to arbitration of disputes; amending s. 719.202, F.S., relating to sales or reservation deposits; amending s. 719.203, F.S., relating to warranties; amending s. 719.301, F.S., relating to the transfer of association control; amending s. 719.302, F.S., relating to association agreements; amending s. 719.303, F.S., relating to owner obligations; amending s. 719.304, F.S., relating to the association's right to amend cooperative documents; amending s. 719.401, F.S., relating to leaseholds; amending s. 719.403, F.S., relating to phase cooperative; amending s. 719.501, relating to powers and duties of the division; amending s. 719.502, F.S., relating to filing prior to sale or lease; amending s. 719.503, F.S., relating to disclosure prior to sale; amending s. 719.504, F.S., relating to prospectus; amending s. 719.506, F.S., relating to publication of false information; amending s. 719.606, F.S., relating to conversion to cooperatives; amending s. 719.608, F.S., relating to notice of intended conversion; amending s. 719.61, relating to notices; amending s. 719.612, F.S., relating to right of first refusal; amending s. 719.616, F.S., relating to disclosure of condition of building; amending s. 719.618, F.S., relating to converter reserve accounts; repealing s. 718.302(1)(e), F.S.; providing an effective date.

Senator Myers moved the following amendment to House Amendment 1, which was adopted:

Amendment 1—On page 3, strike line 30 and insert:

514.0115, Florida Statutes, are amended to read:

(3) Pools that serve condominiums or cooperative units of associations whose recorded documents prohibit rental of the units or do not permit rental of units for periods of less than 60 days are exempt, after the issuance of the rental operating permit from supervision under this chapter except for water quality and safety equipment inspection shall be annual or at the complaint of the owners.

On motions by Senator Myers, the Senate concurred in House Amendment 1 as amended and House Amendment 2, and the House was requested to concur in the Senate amendment to the House amendment.

CS for SB 192 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Fox	Johnson	Myers
Castor	Frank	Kirkpatrick	Neal
Childers, D.	Girardeau	Kiser	Plummer
Childers, W. D.	Grant	Malchon	Scott
Crawford	Grizzle	Mann	Stuart
Crenshaw	Hill	Margolis	Thomas
Deratany	Jenne	McPherson	Weinstein
Dunn	Jennings	Meek	

Nays—None

Vote after roll call:

Yea—Gersten, Peterson

Senator Stuart presiding

The President presiding

LOCAL CALENDAR

On motion by Senator Jenne, House Bills 819 and 1061 were added to the local bill calendar.

SB 1277—A bill to be entitled An act relating to the Englewood Water District in Charlotte and Sarasota Counties; amending section 1 of chapter 59-931, Laws of Florida, as amended, enlarging the area of the Englewood Water District; providing for a referendum; amending section 3 of chapter 59-931, Laws of Florida, as amended; providing that all terms of office for supervisors shall commence on the lst day of January following the annual election; deleting holdover provisions for members' terms; providing for the appointment of a supervisor by a majority vote of the supervisors to fill terms of office not otherwise filled at the annual election; providing for local qualification of candidates; providing that terms commencing prior to the effective date of this act shall be continued until January 1st following the original term; providing compensation to board members in an annual amount of $1,000 each; deleting provisions requiring the treasurer to be a non-board member; adding section 35 to chapter 59-931, Laws of Florida, as amended; providing for a recall petition for the removal of any member of the board of supervisors by the electors of the district; providing grounds for the removal of elected district supervisors; providing for a recall election; providing for the filling of vacancies by special elections; providing for the filling of vacancies caused by resignation from office prior to the recall election; determining when a recall petition may be filed; providing a penalty for offenses relating to recall petitions; adding section 36 to chapter 59-931, as amended; providing a penalty for violation of any lawful rule, regulation, resolution or order of the Englewood Water District; providing that each violation thereof shall be a separate offense; providing an effective date.

—was read the second time by title.

One amendment was adopted to SB 1277 to conform the bill to HB 1028.

On motions by Senator Johnson, by two-thirds vote HB 1028 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Rules and Calendar.

On motion by Senator Johnson—

HB 1028—A bill to be entitled An act relating to the Englewood Water District in Charlotte and Sarasota Counties; amending section 1 of chapter 59-931, Laws of Florida, as amended, enlarging the area of the Englewood Water District; providing for a referendum; amending section 3 of chapter 59-931, Laws of Florida, as amended; providing that all terms of office for supervisors shall commence on the lst day of January following the annual election; deleting holdover provisions for members' terms; providing for the appointment of a supervisor by a majority vote of the supervisors to fill terms of office not otherwise filled at the annual election; providing for local qualification of candidates; providing that terms commencing prior to the effective date of this act shall be continued until January 1st following the original term; providing compensation to board members in an annual amount of $1,000 each; deleting provisions requiring the treasurer to be a non-board member; adding section 35 to chapter 59-931, Laws of Florida, as amended; providing for a recall petition for the removal of any member of the board of supervisors by the electors of the district; providing grounds for the removal of elected district supervisors; providing for a recall election; providing for the filling of vacancies by special elections; providing for the filling of vacancies caused by resignation from office prior to the recall election; determining when a recall petition may be filed; providing a penalty for offenses relating to recall petitions; adding section 36 to chapter 59-931, as amended; providing a penalty for violation of any lawful rule, regulation, resolution or order of the Englewood Water District; providing that each violation thereof shall be a separate offense; providing an effective date.

—a companion measure, was substituted for SB 1277 and read the second time by title.

Senator Johnson moved the following amendments which were adopted:

Amendment 1—On page 9, line 5, strike "settlements" and insert: settlement

Amendment 2—On page 3, line 4, strike "(A)" and insert: Section 3. (A)

On motion by Senator Johnson, by two-thirds vote HB 1028 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

SB 1277 was laid on the table.

SB 1327—A bill to be entitled An act relating to the Marion County School District; providing for school system capital improvements; authorizing the district school board to issue bonds for the payment of the cost thereof; authorizing the school board to issue refunding bonds; providing for the payment of principal, premiums, and interest on such bonds from racetrack funds and jai alai fronton funds accruing to Marion County and distributable to the school board or from any other funds of the school board legally available therefor; providing for the investment of the proceeds of the sale of bonds; authorizing the bonds as legal investments; providing that a referendum is not required to issue bonds; specifying project costs that may be financed by the bond proceeds; authorizing the board to issue bond anticipation notes prior to the issuance of bonds; providing for negotiability of bonds; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote SB 1327 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

SB 1335—A bill to be entitled An act relating to the Town of Brooker; amending section 3, Article I, section 1, Article V, and section 1, Article VI of the Charter of the Town of Brooker, Revised 1983; deleting requirement that officers other than the mayor and town councilmen must be residents and voters of the town; providing that the town clerk and town marshal may be elected or appointed as provided by ordinance; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendment which was adopted:

Amendment 1—On page 1, line 26, and on page 2, line 2, before "*or*" insert: ,

On motion by Senator Grant, by two-thirds vote SB 1335 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 340—A bill to be entitled An act relating to the Lake Worth Downtown Development Authority, Palm Beach County; amending section 8 of chapter 72-592, Laws of Florida, as amended, providing for ad valorem taxation and increasing the tax rate from 1 mill on each dollar of tax base to 2 mills on each dollar of tax base to commence the fiscal year beginning October 1, 1986, following approval by referendum; repealing section 11(c) of chapter 72-592, Laws of Florida, providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 340 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 358—A bill to be entitled An act relating to the City of Bradenton, Manatee County; repealing chapter 67-1121, Laws of Florida, as amended, relating to the Firemen's Pension Fund of the City of Bradenton, and allowing the act to be amended by ordinance of the City of Bradenton; providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote HB 358 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 461—A bill to be entitled An act relating to Manatee County; amending section 15 of chapter 85-452, Laws of Florida, increasing Ellenton Fire Control District rates in the schedule of special assessment; providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote HB 461 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 470—A bill to be entitled An act relating to the North Fort Myers Fire Control District, Lee County; amending section 6 of chapter 30925, Laws of Florida, 1955, as amended; providing for a maximum millage levy of 2 mills; providing a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 470 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 526—A bill to be entitled An act relating to Manatee County; amending section 15 of chapter 84-477, Laws of Florida, as amended, relating to the Oneco-Tallevast Fire Control District; increasing the maximum assessments which may be levied against taxable real property within the district; providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote HB 526 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 685—A bill to be entitled An act relating to Citrus County; amending section 1 of chapter 84-409, Laws of Florida; providing criteria for special alcoholic beverage licenses for restaurants; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 685 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 941—A bill to be entitled An act relating to Franklin County; authorizing the Board of County Commissioners to enter into a lease for the operation of the George E. Weems Memorial Hospital, in Apalachicola, Florida; providing for maintenance of the level of indigent care; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote HB 941 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Beard	Childers, D.	Crawford
Barron	Castor	Childers, W. D.	Crenshaw
Deratany	Grizzle	Langley	Peterson
Dunn	Hair	Malchon	Plummer
Fox	Hill	Mann	Scott
Frank	Jenne	Margolis	Stuart
Gersten	Jennings	McPherson	Thomas
Girardeau	Johnson	Meek	Thurman
Gordon	Kirkpatrick	Myers	Vogt
Grant	Kiser	Neal	Weinstein

Nays—None

HB 960—A bill to be entitled An act relating to Hillsborough County; providing authority for the District Board of Trustees of Hillsborough Community College to enter into agreements to allow use of college property not needed for educational purposes when such use will further a legitimate educational purpose; requiring the Board of Trustees of Hillsborough Community College to maintain control of such property; prohibiting the granting of a property interest in such agreements; validating previous agreements entered into in accordance with the provisions of this law; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote HB 960 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 961—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation to issue an alcoholic beverage license to the Tampa Bay Performing Arts Center, Inc., for use at the Tampa Bay Performing Arts Center; authorizing transfer of the license to qualified applicants; providing for automatic reverter of the license; prohibiting sales for consumption off premises; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote HB 961 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 967—A bill to be entitled An act relating to Hillsborough County local government and to municipalities within the county; amending ss. 3, 4, 5, 6, 7, 10, 12, 14, and 17 of chapter 75-390, Laws of Florida, as amended, the Hillsborough County Local Government Comprehensive Planning Act of 1975; revising and providing definitions; deleting obsolete dates and references to certain special districts; requiring the local planning agency to monitor, evaluate, and update the comprehensive plan; providing application and reference to part II of chapter 163, F.S., the Local Government Comprehensive Planning and Land Development Regulation Act; providing responsibility of local planning agency in comprehensive planning program, including long-range, mid-range, and short-range planning, technical assistance, and other functions; requiring certain notice to specified property owners; expanding public participa-

tion in the comprehensive planning process; providing procedure for amendment of a land use designation or change in residential density on specified parcels of land; providing legal status of comprehensive plan; providng that redress for non-compliance shall be in addition to any remedies provided by general law; repealing ss. 8, 9, 11, 13, 15, and 16 of chapter 75-390, Laws of Florida, as amended, relating to required and optional elements of a comprehensive plan, surveys and studies, adoption of a comprehensive plan, evaluation and appraisal of a comprehensive plan, relationship of comprehensive plan to exercise of land regulatory authority, and cooperation by the Division of State Planning of the Department of Administration and regional planning agencies; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote HB 967 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 969—A bill to be entitled An act relating to Hillsborough County; amending the Civil Service Act of 1985; amending section 2 of chapter 85-424, Laws of Florida, clarifying that employees who are or become members of a bargaining unit as defined by chapter 447, F.S., and who are exempted from the classified service by virtue of the Civil Service Act of 1985, may not remain a part of the classified service; amending section 5 of chapter 85-424, Laws of Florida, clarifying the definition of "secretarial and clerical employees of the School Board"; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote HB 969 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 975—A bill to be entitled An act relating to the Jacksonville Port Authority; adding ss. 1(f), (2)(i), and amending s. 4, ch. 63-1447, Laws of Florida, as amended; establishing a port district, coterminous with the County of Duval, to be known as the "Jacksonville Port District"; authorizing the levy of a 1-mill tax on all real property in the port district; providing for the use of the revenues by the port authority for certain capital expenditures; providing for approval or revision of the budget of the authority by the Council of the City of Jacksonville; deleting obsolete provisions; eliminating the payment of $800,000 per fiscal year by the city council; providing for assessment and collection of tax; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 975 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Beard	Childers, D.	Crawford
Barron	Castor	Childers, W. D.	Crenshaw
Deratany	Grizzle	Langley	Peterson
Dunn	Hair	Malchon	Plummer
Fox	Hill	Mann	Scott
Frank	Jenne	Margolis	Stuart
Gersten	Jennings	McPherson	Thomas
Girardeau	Johnson	Meek	Thurman
Gordon	Kirkpatrick	Myers	Vogt
Grant	Kiser	Neal	Weinstein

Nays—None

HB 998—A bill to be entitled An act relating to the City of Atlantic Beach, Florida, Duval County; amending section 82 of chapter 57-1126, Laws of Florida, as amended, relating to the incorporation of the City of Atlantic Beach, Florida, in Duval County; providing for the manner of election of officers; repealing section 84 of chapter 57-1126, Laws of Florida, relating to write-in candidates; providing an effective date.

—was read the second time by title. On motion by Senator Crenshaw, by two-thirds vote HB 998 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1038—A bill to be entitled An act relating to the East Mulloch Drainage District, Lee County; expanding the boundaries of the district; amending section 6 of chapter 63-930, Laws of Florida, as amended; increasing the maintenance tax rate; providing an effective date; providing for a referendum.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 1038 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1045—A bill to be entitled An act relating to the Cape Canaveral Hospital District in Brevard County; amending sections 4(2), 6, 11 and 13 of chapter 59-1121, Laws of Florida, as amended; adding restrictions to a sale of the hospital facilities and requiring a referendum prior to sale; requiring that the Board of Directors or Trustees of any Lessee corporation serve on a voluntary basis without compensation; providing limitations on the ability of the members of the Hospital Board to serve as members of the Board of Directors or Trustees of any Lessee corporation; providing that the Hospital Board shall meet no less than annually; providing for public meetings by the Board of Directors or Trustees of any Lessee corporation save and except on certain delineated issues; providing an effective date.

—was read the second time by title. On motion by Senator Vogt, by two-thirds vote HB 1045 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1065—A bill to be entitled An act relating to the Palm Beach County Free Public Library Taxing District, Palm Beach County; amending ss. 10 and 11 of chapter 67-1869, Laws of Florida, as amended, providing authority to the Board of County Commissioners of Palm Beach County to submit a special referendum to voters of the district for a levy of up to one-half mill for up to 2 years, the proceeds of which shall be used for library capital improvements; providing for any municipality entering the district after successful district referendum and successful municipal referendum to be taxed for that millage rate and number of years approved in the district referendum, beginning with the fiscal year it enters; providing that the value of any municipal library resources transferred to the district be deducted from the amount levied in the municipality; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 1065 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1067—A bill to be entitled An act relating to the Loxahatchee Groves Water Control District, Palm Beach County, created under chapter 298, Florida Statutes; providing for the assessing of taxes of land less than 1 acre in area as a full acre; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 1067 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1119—A bill to be entitled An act relating to the Palm Harbor Special Fire Control District; authorizing the district to impose impact fees for new construction; providing for a referendum to allow the district to levy ad valorem taxes not to exceed 1.5 mills; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote HB 1119 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Fox	Jennings	Neal
Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Castor	Girardeau	Langley	Scott
Childers, D.	Gordon	Malchon	Stuart
Childers, W. D.	Grant	Mann	Thomas
Crawford	Grizzle	Margolis	Thurman
Crenshaw	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jenne	Myers	

Nays—None

HB 1141—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending section 6 of chapter 21483, Laws of Florida, 1941, as amended, relating to the automatic retirement of employees; repealing section 8 of chapter 1713, Laws of Florida, 1957, relating to the maximum age for employment in the fire department; superseding existing laws relating thereto; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 1141 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1144—A bill to be entitled An act relating to the Firemen's Relief and Pension Fund of the City of Pensacola, Escambia County; amending section 5, subsection (g) of chapter 21483, Laws of Florida, 1941, as amended, relating to the minimum amount of pension received, and by whom; superseding existing laws relating thereto; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 1144 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1147—A bill to be entitled An act relating to Collier County, Florida; providing definitions and declaration of policy; authorizing said County to operate or contract for the ownership and operation of a solid waste disposal and resource recovery system for the disposal of garbage and other waste matter and the recovery of energy and other resources; authorizing Collier County to require the use of the facilities of the solid waste disposal and resource recovery system by all of the inhabitants and entities of Collier County, including all municipalities; authorizing the governing body to prescribe and collect reasonable charges for the services and facilities of the solid waste disposal and resource recovery system; authorizing the lease of facilities or authorizing the County to contract for private ownership and operation of its facilities; authorizing emergency disposal by individual political subdivisions and providing other powers and authority; providing for annual audit; providing for col-

lection of charges; providing for grants, loans and contributions; providing for lease of facilities and establishment of transfer station; repealing and subordinating any inconsistent or conflicting powers granted to any municipality or other body within Collier County; providing for enforcement, prohibiting annexation; providing for the effect of state general laws; providing for antitrust exemptions; providing severability; providing an effective date.

—was read the second time by title.

Senator Mann moved the following amendment which was adopted:

Amendment 1—On page 14, strike all of lines 4 and 5 and insert: construed as being "state action" and furthermore exempt from and not subject to any of the anticompetitive limitations of federal or

On motion by Senator Mann, by two-thirds vote HB 1147 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1148—A bill to be entitled An act relating to Jackson County; amending chapter 61-2290, Laws of Florida, as amended, authorizing the Board of Trustees of the Campbellton-Graceville Hospital Corporation to enter into contracts, agreements, or leases for the purpose of operating the Campbellton-Graceville Hospital and its facilities; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendment which was adopted:

Amendment 1—On page 1, line 8, after the semicolon (;) insert: authorizing the board of trustees to sell the personal property to the corporation entering such contract, agreement, or lease and to agree to repurchase such property upon the expiration of the contract, agreement, or lease;

On motion by Senator Thomas, by two-thirds vote HB 1148 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1158—A bill to be entitled An act relating to the Pensacola-Escambia Promotion and Development Commission; amending subsection 11 of section 9 of chapter 80-579, Laws of Florida, as amended; providing the conditions under which real property may be sold and leased by the commission and repealing the section of the act that states if the purchaser ceases to utilize the property, title shall revert to the commission upon repayment of the purchase price to the purchaser; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 1158 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1252—A bill to be entitled An act relating to the Consolidated City of Jacksonville and the City of Atlantic Beach; excluding certain described areas, commonly known as "Seminole Beach," from the territory of the Consolidated City of Jacksonville and annexing such areas to the City of Atlantic Beach; providing for referendums; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1252 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

On motions by Senator Deratany—

HB 1013—A bill to be entitled An act relating to Brevard County; relating to the formation of a Special District within an area including a portion of the City of Palm Bay, the City of West Melbourne, and Brevard County; establishing the Water Control District of South Brevard; providing legislative intent; providing definitions; establishing the boundaries of the District; providing for a Board of Directors; establishing the powers and duties of the District; providing for levy of an annual user fee until ad valorem tax established; providing for the power to tax by ad valorem tax and to levy special assessments; providing for enforcement of such taxes and assessments; authorizing award of cost and attorneys' fees; providing for the issuance of revenue bonds and general obligations bonds; establishing initial operation and maintenance costs of the District and the method of payment; providing that obstruction of a drainage canal or watercourse is a criminal offense; providing for damages; providing for expansion or contraction of the boundaries of the District; providing an effective date.

—a companion measure, was substituted for CS for SB 1298 and by two-thirds vote read the second time by title. On motion by Senator Deratany, by two-thirds vote HB 1013 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

CS for SB 1298 was laid on the table.

SB 1338—A bill to be entitled An act relating to Orange County; providing for the issuance of a special alcoholic beverage license to an entertainment or lodging complex within the City of Orlando; providing for a definition of an entertainment or lodging complex; providing restrictions; providing an effective date.

—was read the second time by title. On motion by Senator Stuart, by two-thirds vote SB 1338 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1034—A bill to be entitled An act relating to Valencia Drainage District, Orange County; providing that said district shall be exempt from certain provisions of ss. 298.11 and 298.12, F.S.; providing that the Board of Supervisors be increased from three to five persons; providing for the terms of the five supervisors; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Stuart, by two-thirds vote HB 1034 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 696—A bill to be entitled An act relating to Clay County; creating the Lake Asbury Municipal Service Benefit District; specifying boundaries; providing for membership, terms, powers, and duties of the Board of District Trustees; providing authorization to levy and collect ad valorem taxes, to levy special assessments, and to incur debts; limiting millage; providing for millage increase; specifying powers of Clay County with respect to the district; requiring the bonding of certain persons; requiring audits; providing severability; validating certain taxes collected on behalf of the district; limiting liability of the state and county; providing a referendum.

—was read the second time by title.

Senator Crenshaw moved the following amendments which were adopted:

Amendment 1—On pages 1-17, strike everything after the enacting clause and insert:

Section 1. The Lake Asbury Municipal Service Benefit District is hereby created. The boundaries of the district are as follows:
A parcel of land consisting of the following: Lots 1 thru 18, inclusive, Block 2, Lots 1 thru 14, inclusive, Block 3, and Lots 1 thru 25, inclusive, Block 4, all in Lake Asbury Unit 3, Clay County, Florida, according to Plat Book 7 Pages 28 and 29 of the Public Records of said County:
Also, Lots 1 thru 18, inclusive, Block 3, Lake Asbury Unit 6 according to Plat Book 7, pages 55-59 of said Public Records;
Also, Lots 26 thru 30, inclusive Lake Asbury Unit 3-A, according to Plat Book 7, page 39 of said Public Records;
Also, Lots 1 thru 21, inclusive, Lake Asbury Unit 8 according to Plat Book 7, page 70 of said Public Records;
Also, Lots 1 thru 24, inclusive, Lake Asbury Unit 13, according to Plat Book 8, pages 11 and 12 of said Public Records;
Also, Lots 1 thru 9, inclusive, Lots 21 thru 32, inclusive, and Lots 35 thru 43, inclusive, Lake Asbury Unit 12 according to Plat Book 8, pages 27 and 29 of said Public Records;
Also, Lots 1 thru 43, inclusive, Lake Asbury Unit 11, according to Plat Book 8, pages 7 thru 10 of said Public Records;
Also, Lots 1 thru 38, inclusive, Lake Asbury Unit 10, according to Plat Book 8, pages 25 and 26 of said Public Records;
Also, Lots 1 thru 50, inclusive, Lake Asbury Unit 9, according to Plat Book 8, pages 4, 5 and 6 of said Public Records;
Also, Lots 42 thru 57, inclusive, and Lots 75 thru 94, inclusive, Lake Asbury Unit 2, according to Plat Book 7, pages 17 thru 20 of said Public Records;
Also, Lots 58 thru 74, inclusive, Lake Asbury Replat No. 2, according to Plat Book 7, pages 36 and 37 of said Public Records;
Also, Lots 37 thru 41, Lake Asbury Unit 2-A, according to Plat Book 7, page 38 of said Public Records;
Also, Lots 95 thru 119, Lake Asbury Unit 2-B, according to Plat Book 7, pages 42 and 43; Also, Lots 7 thru 15, inclusive, Lake Asbury Replat No. 1, according to Plat Book 7, Page 35 of said Public Records;
Also, Lots 1 thru 7, inclusive, and Lots 21 thru 36, inclusive, Lake Asbury Unit 1, according to Plat Book 7, pages 15 and 16 of said Public Records;
Also, Lots 1 thru 31, Lake Asbury Unit 18, according to Plat Book 9, pages 2 and 3 of said Public Records;
Also, a portion of Sections 16 and 38, Township 5 South, Range 25 East, according to Official Records Book 249, page 310, Official Records Book 295, Page 128, and Official Records Book 268, page 288 of said Public Records; Also, a portion of Section 38, Township 5 South, Range 25 East, according to Official Records Book 137, page 196, Official Records Book 96, Page 512, Official Records Book 210, page 266, Official Records Book 242, page 472, Official Records Book 276, Page 95, Official Records Book 438, page 544, Official Records Book 283, page 26, Official Records Book 520, page 92, Official Records Book 617, page 68 and Official Records Book 665, page 60 of said Public Records;
Also, all that submerged land situated in Sections 16, 18, 20, 21 and 38, Township 5 South, Range 25 East as shown on the aforementioned plats as: Lake Asbury, South Lake Asbury and Lake Ryan as follows:

LAKE ASBURY, as shown on the following plats of Lake Asbury Units as recorded in the Public Records of Clay County, Florida.

Unit One, as recorded in Plat Book 7, Page 15;
Unit Two, as recorded in Plat Book 7, Page 17;
Unit Three, as recorded in Plat Book 7, Page 28;
Replat No. 1, as recorded in Plat Book 7, Page 35;
Replat No. 2, as recorded in Plat Book 7, Page 36;
Unit No. 2-A, as recorded in Plat Book 7, Page 38;
Unit No. 2-B, as recorded in Plat Book 7, Page 42;
Unit No. 3-A, as recorded in Plat Book 7, Page 39;
and Unit 8, as recorded in Plat Book 7, Page 70.

SOUTH LAKE ASBURY, as shown on the following plats of Lake Asbury, Units 9, 10, 11, 12 and 13, as recorded in the Public Records of Clay County, Florida.

Unit 9, as recorded in Plat Book 8, pages 4-6;
Unit 10, as recorded in Plat Book 8, pages 25-26;
Unit 11, as recorded in Plat Book 8, pages 7-10;
Unit 12, as recorded in Plat Book 8, pages 27-29;
Unit 13, as recorded in Plat Book 8, pages 11-12.

LAKE RYAN, as shown on the plat of Lake Asbury, Unit 18, as recorded in Plat Book 9, Pages 2 and 3 of the Public Records of Clay County, Florida.

LAKE ASBURY DAM, a parcel of land situated in Section 38, Township 5 South, Range 25 East, Clay County, Florida being more particularly described as follows:

Commence at the most westerly corner of Lot 7, Lake Asbury Unit 4, according to Plat Book 7, page 53 of the Public Records of said county; thence on the arc of a curve concave to the southerly and having a radius of 307.60 feet, run a chord distance of 18.83 feet to the point of beginning, the bearing of said chord being South 64 degrees 40 minutes 35 seconds East; thence on the Southwesterly line of said Lot 7, South 62 degrees 55 minutes, 20 seconds East 81.17 feet; thence South 75 degrees 12 minutes

09 seconds East 466.80 feet; thence North 70 degrees 45 minutes 50 seconds East 442.00 feet; thence North 63 degrees 39 minutes 50 seconds East 262.00 feet; thence North 61 degrees 31 minutes 50 seconds East 300.37 feet; thence South 25 degrees 36 minutes 25 seconds East 50.00 feet to the most Westerly corner of Lot 1, Lake Asbury Unit One according to Plat Book 7, Pages 15 and 16 of said Public Records; thence South 62 degrees 21 minutes 09 seconds West 572.64 feet; thence South 66 degrees 09 minutes 00 seconds West 452.65 feet; thence North 77 degrees 17 minutes 00 seconds West 272.70 feet; thence North 70 degrees 11 minutes 00 seconds West 280.83 feet to the most Easterly corner of Lot 1, Block 2, Lake Asbury Unit Three according to Plat Book 7, pages 28 and 29 of said Public Records; thence on the Northeasterly line of said Lot 1, Block 2, Lake Asbury Unit Three, North 45 degrees 42 minutes 40 seconds West 52.00 feet; thence North 27 degrees 04 minutes 40 seconds East 60.00 feet to said point of beginning.

SOUTH LAKE ASBURY DAM, a parcel of land situated in Section 20, Township 5 South, Range 25 East, Clay County, Florida, being more particularly described as follows:

Begin at the Southeast corner of Lot 1, Lake Asbury Unit 8 according to Plat Book 7, page 70 of the public records of said county; thence on the Southerly line of said Lot 1, South 85 degrees 51 minutes 00 seconds West 397.90 feet to the Northerly line of Branscomb Road according to Lake Asbury Unit 13 as recorded in Plat Book 8, pages 11 and 12 of said public records; thence on said Northerly line of Branscomb Road South 81 degrees 34 minutes 20 seconds East 152.49 feet; thence South 08 degrees 25 minutes 40 seconds West 60.00 feet to the Northeast corner of a parcel of land designated as "Swim Area" according to said Lake Asbury Unit 13; thence South 79 degrees 54 minutes 17 seconds East 819.36 feet to the Northwest corner of Lot 1, Lake Asbury Unit 9 as recorded in Plat Book 8, pages 4, 5, and 6 of said public records; thence on the Northwesterly line of said lot 1, Lake Asbury Unit 9, run North 68 degrees 55 minutes 00 seconds East 48.43 feet; thence North 31 degrees 29 minutes 40 seconds West 40.12 feet; thence North 08 degrees 14 minutes 16 seconds East 29.15 feet; thence North 67 degrees 44 minutes 55 seconds West 295.61 feet to the Southwest Corner of Lot 119, Lake Asbury Unit 2-B as recorded in Plat Book 7, pages 43 of said public records; thence North 78 degrees 37 minutes 20 seconds West 312.60 feet to said point of beginning.

LAKE RYAN DAM, a parcel of land situated in Section 38, Township 5 South, Range 25 East, Clay County, Florida, being more particularly described as follows:

Commence at the most Westerly corner of Lot 18, Lake Asbury Unit 3 according to Plat Book 7, Pages 28 and 29 of the public records of said county; thence on the Southeasterly line of Lake Asbury Drive run South 44 degrees 17 minutes 40 seconds West 500.00 feet; thence South 45 degrees 42 minutes 20 seconds East 193.10 feet to the point of beginning; thence North 45 degrees 42 minutes 20 seconds West 193.10 feet to said Southeasterly line of Lake Asbury Drive; thence on last said run line the following 2 courses; (1) South 44 degrees 17 minutes 40 seconds West 35.00 feet; (2) thence on the arc of a curve concave to the Northwesterly and having a radius of 164.63 feet, run a chord distance of 67.68 feet to the Northeast corner of Lot 1, Lake Asbury Unit 18 according to Plat Book 9, pages 2 and 3 of said public records; the bearing of said chord being South 56 degrees 09 minutes 20 seconds West; thence on the Northeasterly line of said Lot 1 and on a prolongation thereof run South 33 degrees 35 minutes 40 seconds East 295.77 feet to the most Northerly corner of Lot 31 of said Lake Asbury Unit 18; thence on the Northeasterly line of said Lot 31 run the following 5 courses: (1) South 33 degrees 35 minutes 40 seconds East 95.53 feet; (2) thence on the arc of a curve concave to the Northerly and having a radius of of 69.91 feet run a chord distance of 81.38 feet, and bearing of said chord being South 69 degrees 11 minutes 20 seconds East; (3) thence North 75 degrees 13 minutes 00 seconds East 27.40 feet; (4) thence on the arc of a curve concave to the Southerly and having a radius of 29.96 feet run a chord distance of 34.08 feet, the bearing of said chord being South 70 degrees 06 minutes 55 seconds East; (5) thence South 35 degrees 26 minutes 50 seconds East 236.73 feet to the Northwesterly line of said Lake Asbury Drive; thence on last said line North 42 degrees 38 minutes 40 seconds East 61.32 feet; thence North 35 degrees 26 minutes 50 seconds West 487.00 feet; thence North 36 degrees 45 minutes 10 seconds West 47.88 feet to said point of beginning.

Section 2. The following is the charter of the Lake Asbury Municipal Service Benefit District:

(1) The purpose of the district shall be the continuing maintenance of the lakes and dams known as Lake Asbury, South Lake Asbury, and Lake Ryan in Clay County, Florida.

(2)(a) The governing body of the district shall consist of a Board of nine District Trustees. The original Board of District Trustees shall consist of nine persons residing within the district who are qualified electors of the State of Florida. All members of the original Board of District Trustees shall be appointed by the County Commission of Clay County and shall hold office until the next general election and until their successors are elected and qualified.

(b) At the first general election following the appointment of the original Board of District Trustees, nine District Trustees shall be elected by the qualified voters of the district, with four 2-year terms and five for 4-year terms, and shall serve until their successors are elected and qualified. The seats shall be numbered consecutively. In the original election, the odd-numbered seats shall be elected for terms of 4 years, the even-numbered seats for terms of 2 years. The term of office of the District Trustees elected at each succeeding election shall be 4 years. To be eligible for election, a person must reside in the district and be qualified to vote in the district.

(c) District Trustee candidates seeking election may qualify from noon on the 90th day to noon on the 32nd day prior to the election by filing, without political party affiliation, with the Supervisor of Elections, a petition upon a form approved by the Supervisor of Elections and signed by not less than 25 eligible voters within the district. Candidates shall specify the seat which they seek by number. The district shall pay all costs of the district elections.

(d) In all elections for District Trustees, which shall be held in conjunction with the second primary and general election, persons who own real property within the district are qualified to vote.

(e) Each District Trustee elected pursuant to this section shall take office at the same time as members of the Board of County Commissioners. Each District Trustee, before entering upon his duties, shall take and subscribe to the oath or affirmation required by the State Constitution.

(f) Any District Trustee may be removed from office by the Board of County Commissioners for misfeasance, malfeasance, or willful neglect of duty. In the event of a vacancy in the office due to any cause, the Board of County Commissioners shall appoint a qualified successor District Trustee to hold office until the next ensuing general election.

(3)(a) The District Trustees from their number shall annually elect a Chairman, Vice-Chairman and Treasurer, and shall appoint a Secretary, who shall serve at the pleasure of the District Trustees. The Secretary, who shall not be a District Trustee, shall receive such compensation as may be fixed by the Board of District Trustees, and shall be the custodian of all books and records of the district. The first meeting in January of each year shall be the Board of District Trustees' organizational meeting.

(b) The Board of District Trustees shall meet at least once a month at a time, date, and place established by the District Trustees. All meetings shall be held at a public place within the district and shall be open to the public.

(c) Five District Trustees shall constitute a quorum at Board of District Trustees' meetings. The affirmative vote of a majority of the District Trustees present shall be necessary for any action taken by the District Trustees; however, no vacancy in the membership of the District Trustees shall impair the right of a quorum to exercise all of the rights and perform all of the duties hereunder.

(d) No District Trustees shall receive compensation, but each District Trustee shall be paid his necessary expenses incurred while engaged in the performance of his duties as prescribed by state statutes.

(e) The Clay County Tax Collector shall be the ex-officio tax collector for the district, the Clay County Clerk of the Circuit Court shall be the ex-officio clerk of the district, and the Clay County Supervisor of Elections shall be the ex-officio supervisor of elections of the district.

(f) The Board of District Trustees may appoint such other officers of the district as it deems appropriate and necessary.

(g) Upon determination by the Board of District Trustees at a regularly scheduled meeting that certain areas within the district do not

receive equal benefit for taxes levied, the District Trustees may by formal resolution create a subdistrict within the district for the purpose of levying a uniform tax rate within the subdistrict different from the rate within the district. However, the tax rate in any subdistrict shall never exceed the general rate set for the district.

(4) The district is authorized and empowered:

(a) To sue and be sued;

(b) To contract;

(c) To adopt and use a common seal and alter the same at pleasure;

(d) To purchase, hold, lease, sell, or otherwise aquire and convey such real and personal property and interest therein as may be necessary or proper to carry out the purpose of this act;

(e) To make rules and regulations for its own government and proceedings;

(f) To employ engineers, attorneys, accountants, financial or other consultants, and such other agents and employees as the Board of District Trustees may require or deem necessary to accomplish the purposes of this law, or to contract for any such services;

(g) To acquire, construct, operate, maintain, equip, improve, extend, and enlarge capital projects within or without the district for the purposes of enabling the district to perform the specialized public functions or services as herein provided;

(h) To issue tax anticipation notes and revenue certificates secured only by the anticipated revenues of the district;

(i) To levy and assess ad valorem taxes authorized by law to pay the cost of such specialized public functions or services authorized in this charter and which are municipal services within the meaning of Section 9(b), Article VII, Constitution of Florida; provided, however, that such rate of taxation may not exceed 3 mills, and that such millage constitutes part of the millage that the county may levy for municipal purposes;

(j) To assess for each year of its operation against every lot in the district a special assessment not to exceed $100.

1. The assessment above shall be billed and collected as provided by Florida law, the rules of the Florida Department of Revenue, and appropriate county ordinances, as applicable. The procedures of s. 197.0126, Florida Statutes, shall be utilized in collection and assessment upon written agreement with the County Property Appraiser providing for reimbursement of administrative costs incurred. All actions and procedures for collections by the Property Appraiser or the Tax Collector shall be as described by general Florida law.

2. The special assessments shall be payable at the time and in the manner set forth as prescribed in chapter 197, Florida Statutes, or as may be subsequently modified by the governing body, and shall be and remain liens on the assessed property, coequal with the lien of all state, county, district, and municipal taxes, and superior in dignity to all other liens, titles, and claims, until paid and shall bear interest at a rate not to exceed 18 percent per annum.

(k) To fix and collect rates, fees, and other charges for the specialized public functions or services authorized by this act;

(l) To restrain, enjoin, or otherwise prevent the violation of this act or of any resolution or rule adopted pursuant to the powers granted by this act;

(m) To join with any other district, municipality, county, or other political subdivision, public agency, or authority in the exercise of common powers;

(n) To contract with municipalities or other private or public corporations or persons to provide or receive such specialized public functions or services, including by way of nonexclusive franchise; and

(o) To enter into contracts with the government of the United States or any agency or instrumentality thereof, or with any state, county, municipality, district, authority, or political subdivision, private corporation, partnership, association, or individual to effect the purposes of this act, and to receive and accept, from any federal agency, grants or loans for or in aid of the specialized public functions or services authorized herein.

(5) The creation and existence of the district shall not affect the obligations and responsibilities of Clay County as to the area encompassed by the district.

(6) The district shall annually submit a proposed district budget to the Board of County Commissioners for approval or rejection. The failure of the Board of County Commissioners to take action on the budget within 45 days after submission constitutes approval of the budget. The district shall also submit any amendments to its budget to the Board of County Commissioners for approval or rejection, which amendments shall also be deemed approved if the Board of County Commissioners fails to take action on them within 45 days after submission.

(7) The millage limitation of 3 mills specified in paragraph (4)(i) may be increased only upon petition of the Board of District Trustees, approval of such petition by the Board of County Commissioners, and approval by majority vote of the electors of the district voting in a referendum called for that purpose.

(8) The district may not rescind or modify any contracts, franchises, or ordinances of Clay County, and the county shall not have the power to rescind or modify any validly enacted contracts or franchises or ordinances of the district. However, no act, franchise, or regulation of the district shall be deemed to prevent the county from acting, granting franchises, levying taxes, or regulating similar or the same subject matter within the district.

(9) Unless specifically reserved in this act, Clay County shall have no power of review over validly enacted fees, charges, and rules of the district that are enacted pursuant to this act, but to the extent that such fees, charges, or rules are in conflict with an ordinance, franchise, charge, fee, regulation, or rule of the county which also affects areas which are not within the boundaries of the district, such fees, charges, or rules are void.

(10) Any person who is authorized by the district to write checks or otherwise receive, expend, or handle district funds shall be bonded at the district's expense by a good and sufficient fidelity bond in at least the amount of $25,000.

(11) The district shall be audited annually at its expense by such persons and in such manner as the Board of County Commissioners of Clay County shall direct.

Section 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 4. All actions taken and taxes collected by or on behalf of the Lake Asbury Municipal Benefit District after October 1, 1985, under the authority provided by Ordinance 85-33 of the Board of County Commissioners of Clay County, are ratified and validated in all respects if such actions or taxes would have been valid under this act had this act been in effect at the time such action was taken or such taxes were collected.

Section 5. No action shall be brought against the state, St. Johns Water Management District, or Clay County, or any agents or employees of the state, St. Johns Water Management District, or Clay County, for the recovery of damages caused by the partial or total failure of any dam, impoundment, reservoir, appurtenant work, or works upon the ground that the state, district, or Clay County is liable by virtue of any of the following:

(1) Approval of the permit for construction or alteration.

(2) Issuance or enforcement of any order relative to maintenance or operation.

(3) Control or regulation of dams, impoundments, reservoirs, appurtenant work, or works regulated under chapter 373, Florida Statutes, or Clay County Ordinance 76-10.

(4) Measures taken to protect against failure during emergency.

Section 6. This act shall take effect upon becoming a law, except that paragraph (i) of subsection (4) and subsection (7) of section 2 of this act which authorize the levy of ad valorem taxation shall take effect only upon its express approval by a majority vote of those qualified electors of the district voting in a referendum to be held by the Board of Commissioners of Clay County in conjunction with any regular, primary or gen-

eral election or at a special election called for that purpose. Such election shall be held in accordance with the provisions of law relating to elections currently in force in the district.

Amendment 2—In title, on page 1, strike all of lines 1-16 and insert: A bill to be entitled An act relating to Clay County; creating the Lake Asbury Municipal Service Benefit District; specifying boundaries; providing for membership, terms, powers, and duties of the Board of District Trustees; providing authorization to levy and collect ad valorem taxes, to levy special assessments, and to incur debts; limiting millage and providing procedure for increase thereof; providing for millage increase; specifying powers of Clay County with respect to the district; providing for approval of district budgets by the Board of County Commissioners; requiring the bonding of certain persons; requiring audits; providing severability; validating certain taxes collected on behalf of the district; limiting liability of the state and county; providing a referendum; providing an effective date.

On motion by Senator Crenshaw, by two-thirds vote HB 696 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 916—A bill to be entitled An act relating to Lee County; providing for the issuance of a special alcoholic beverage license to a small destination resort complex within the City of Sanibel; providing for a definition of small destination resort complex; providing restrictions; providing an effective date.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 916 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1097—A bill to be entitled An act relating to Duval County; providing for the issuance of a special alcoholic beverage license to the Jacksonville Convention Center of the City of Jacksonville by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation of the State of Florida, for use by the Convention Center for on-premises consumption; authorizing transfer of the license to qualified applicants; providing for automatic reverter of the license; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 1097 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Childers, D.	Deratany	Gersten
Barron	Childers, W. D.	Dunn	Girardeau
Beard	Crawford	Fox	Gordon
Castor	Crenshaw	Frank	Grant
Grizzle	Kirkpatrick	McPherson	Scott
Hair	Kiser	Meek	Stuart
Hill	Langley	Myers	Thomas
Jenne	Malchon	Neal	Thurman
Jennings	Mann	Peterson	Vogt
Johnson	Margolis	Plummer	Weinstein

Nays—None

HB 1120—A bill to be entitled An act relating to the City of Clearwater; providing that vendors of malt beverages containing alcohol of more than 1 percent by weight shall be subject to zoning; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote HB 1120 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1121—A bill to be entitled An act relating to Pinellas County; authorizing the Division of Alcoholic Beverages and Tobacco, Department of Business Regulation, to issue an alcoholic beverage license to the City of St. Petersburg for use only in and for facilities which are owned by the City of St. Petersburg and in which the sale and consumption of alcoholic beverages are not otherwise prohibited; authorizing transfer of the license to qualified applicants; providing for automatic reverter of the license; prohibiting sales for consumption off premises; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote HB 1121 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 996—A bill to be entitled An act relating to Lee County; establishing and organizing a municipality to be known and designated as the City of Fort Myers Beach in said county; defining its territorial boundaries; providing for its government, jurisdiction, powers, franchises, immunities, privileges and means for exercising the same; prescribing the general powers to be exercised by said city; providing for a referendum.

—was read the second time by title.

Senator Mann moved the following amendments which were adopted:

Amendment 1—On page 28, strike all of lines 16-21

Amendment 2—On page 31, strike all of lines 18-20 and insert: This act, except for this section which shall take effect upon becoming a law, shall take effect only upon approval by a majority vote of the registered electors residing within the proposed corporate limits voting in a referendum election which shall

Amendment 3—On page 30, line 31, strike "ten (10) years" and insert: twelve (12) months

Amendment 4—In title, on page 1, line 10, strike before the period (.) and insert: ; providing an effective date

On motion by Senator Mann, by two-thirds vote HB 996 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 819—A bill to be entitled An act relating to Clay County Hospital Authority; adding sections 20 and 21 to chapter 30280, Laws of Florida, 1955, as amended; authorizing the Clay County Hospital Authority to sell, lease, or enter into an operating agreement with respect to Clay Memorial Hospital; providing authorization for the sale of the personal equipment of the hospital in connection with a lease or operating agreement; providing for the disposition of the proceeds from the sale, lease, or operating agreement; providing that after a sale or while any such lease or operating agreement is in effect, the authority shall be released of responsibilities and powers for operating and managing the hospital; authorizing the Clay County Hospital Authority to transfer the capital facilities of Clay Memorial Hospital to a nonprofit corporation; providing continuing duties for the authority; providing an effective date.

—was read the second time by title.

Senator Crenshaw moved the following amendment which was adopted:

Amendment 1—In title, on page 1, line 21, after the semicolon (;) insert: adding section 22 to chapter 30280, Laws of Florida, 1955, as amended; requiring the corporation under a sale, transfer, or lease agreement, to provide a certain percentage of charity care, indigent care, and Medicaid care;

On motion by Senator Crenshaw, by two-thirds vote HB 819 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

HB 1061—A bill to be entitled An act relating to Palm Beach County; relating to annexation of enclaves by the City of Delray Beach; defining "enclave"; providing for annexation of enclaves within the general boundaries of the City of Delray Beach; providing for a referendum; providing an effective date.

—was read the second time by title.

Senator D. Childers moved the following amendment which was adopted:

Amendment 1—On page 1, line 21, strike the period (.) and insert: (,) excepting only the following property: A parcel of land located in Section 30, Township 46 South, Range 43 East, Palm Beach County, Florida, more particularly described as follows:

Bounded on the East by the West Right-of-Way line of the Seaboard Coastline Railroad, on the South by a line beginning 476.28 feet South of the East-West Quarter section line of said Section 30 where it intersects with the Seaboard Coastline Railroad Right-of-Way: thence running in a Westerly direction in the following course: South 89°13'16" West a distance of 1748.84 feet to a point and bounded on the Westerly and Northerly boundary along the following described line: North 0°27'17" West a distance of 33.59 feet to a point; thence North 50°24'56" East a distance of 426.06 feet to a point; thence North 0°27'17" West a distance of 175.78 feet to a point on the East-West Quarter section line of Section 30; thence along said line North 89°13'16" East a distance of 217.60 feet to a point; thence North 50°24'56" East a distance of 1,033.14 feet to a point on the East Right-of-Way line of Congress Avenue; thence North 0°27'17" West a distance of 133 feet along said Right-of-Way line to a point; thence Easterly at right angles to the said Right-of-Way line of Congress Avenue a distance of 162.33 feet; thence North 50°24'56" East a distance of 101.08 feet; thence North 58°41'41" East a distance of 81.24 feet; thence North 0°27'17" West a distance of 229.44 feet; thence Easterly at right angles from said point a distance of 95 feet to a point on the West line of the Seaboard Coastline Railroad Right-of-Way.

On motion by Senator D. Childers, by two-thirds vote HB 1061 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Castor	Girardeau	Kiser	Plummer
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Mann	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein

Nays—None

SPECIAL ORDER

Consideration of CS for SB 644 was deferred.

SB 1173—A bill to be entitled An act relating to the Auditor General; amending s. 11.42, F.S.; revising the procedures for appointment and providing for a performance review and reappointment of the Auditor General; revising the minimum qualifications for the Auditor General; providing minimum qualifications for financial auditors; amending s. 11.45, F.S.; revising the definition of performance audit; requiring the Auditor General to maintain a schedule of performance audits to be conducted; requiring agencies to inform the Legislative Auditing Committee of the status of audit recommendations; providing an effective date.

—was read the second time by title.

Senator Hair presiding

Three amendments were adopted to SB 1173 to conform the bill to HB 1239.

On motions by Senator Kirkpatrick, by two-thirds vote HB 1239 was withdrawn from the Committees on Rules and Calendar and Appropriations.

On motion by Senator Kirkpatrick—

HB 1239—A bill to be entitled An act relating to the Auditor General; amending s. 11.42, F.S.; revising the procedures for appointment and providing for a performance review and reappointment of the Auditor General; revising the minimum qualifications for the Auditor General; providing minimum qualifications for financial auditors; amending s. 11.45, F.S.; revising the definition of performance audit; requiring the Auditor General to maintain a schedule of performance audits to be conducted; extending the time for certain officials to submit responses to audit findings; requiring agencies to inform the Legislative Auditing Committee of the status of audit recommendations; providing an effective date.

—a companion measure, was substituted for SB 1173 and read the second time by title.

Further consideration of HB 1239 was deferred.

On motions by Senator Malchon, by two-thirds vote HB 28 was withdrawn from the Committees on Health and Rehabilitative Services and Appropriations.

On motion by Senator Malchon—

HB 28—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; providing intent; providing definitions; requiring the department to establish a system of outcome evaluation of services provided by its Children, Youth, and Families Program Office; providing for reports; providing duties of the program office advisory council; providing an effective date.

—a companion measure, was substituted for SB 63 and read the second time by title. On motion by Senator Malchon, by two-thirds vote HB 28 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Barron	Fox	Kirkpatrick	Plummer
Beard	Frank	Kiser	Scott
Castor	Gersten	Langley	Stuart
Childers, D.	Girardeau	Malchon	Thomas
Childers, W. D.	Gordon	Mann	Thurman
Crawford	Grant	Margolis	Vogt
Crenshaw	Grizzle	McPherson	Weinstein
Deratany	Hair	Meek	
Dunn	Jennings	Neal	

Nays—None

Vote after roll call:

Yea—Jenne, Peterson

SB 63 was laid on the table.

The President presiding

The Senate resumed consideration of—

CS for SB 99—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 370.021, F.S.; providing findings; providing that law enforcement officers may inspect saltwater products kept in certain areas aboard vessels; creating s. 370.022, F.S.; providing authority for inspections by law enforcement officers on or within the vicinity of vessels or under certain circumstances; providing an effective date.

—with pending Amendment 1 as amended.

Senator Scott moved the following amendment to Amendment 1 which was adopted:

Amendment 1C—On page 3, line 3, strike "routine"

Amendment 1 as amended was adopted.

Senator McPherson moved the following amendment which was adopted:

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to saltwater fisheries; amending s. 370.021, F.S., authorizing law enforcement officers to inspect saltwater products kept in certain areas aboard vessels; providing an effective date.

On motion by Senator McPherson, by two-thirds vote CS for SB 99 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Kiser	Plummer
Barron	Frank	Langley	Scott
Beard	Gersten	Malchon	Stuart
Childers, D.	Girardeau	Mann	Thomas
Childers, W. D.	Grant	Margolis	Thurman
Crawford	Grizzle	McPherson	Vogt
Crenshaw	Hill	Meek	Weinstein
Deratany	Jennings	Myers	
Dunn	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Peterson

The Senate resumed consideration of—

CS for HB 396—A bill to be entitled An act relating to domestic violence; amending s. 741.30, F.S., relating to action by a spouse for injunction for protection against domestic violence; revising conditions for standing; revising contents of petition; clarifying language; providing for civil or indirect criminal contempt; providing for bail in arrests for certain violations of such injunction; creating s. 741.31, F.S., providing a penalty for certain violations of such injunction; providing an effective date.

—with pending Amendment 1 which was adopted.

Senator Langley moved the following amendment which was adopted:

Amendment 2—On page 6, strike all of lines 10-14 and insert: *domestic violence, issued pursuant to s. 741.30, by refusing to vacate the dwelling that the parties share, or returning to said property,*

Senator Castor moved the following amendment which was adopted:

Amendment 3—In title, on page 1, strike all of lines 2-12 and insert: An act relating to husband and wife; amending s. 741.30, F.S., relating to action by a spouse for injunction for protection against domestic violence; revising conditions for standing; revising contents of petition; clarifying language; providing for civil or indirect criminal contempt; providing for bail in arrests for certain violations of such injunction; creating s. 741.31, F.S., providing a penalty for certain violations of such injunction; amending s. 741.01, F.S; increasing the additional fee charged for such licenses; providing an effective date.

On motion by Senator Castor, by two-thirds vote CS for HB 396 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fox	Kirkpatrick	Plummer
Barron	Frank	Kiser	Scott
Beard	Gersten	Langley	Stuart
Castor	Girardeau	Malchon	Thomas
Childers, D.	Gordon	Mann	Thurman
Childers, W. D.	Grant	Margolis	Vogt
Crawford	Grizzle	McPherson	Weinstein
Crenshaw	Hill	Meek	
Deratany	Jennings	Myers	
Dunn	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Jenne

Nay—Peterson

CS for SB 376 was laid on the table.

The Senate resumed consideration of—

HB 1239—A bill to be entitled An act relating to the Auditor General; amending s. 11.42, F.S.; revising the procedures for appointment and providing for a performance review and reappointment of the Auditor General; revising the minimum qualifications for the Auditor General; providing minimum qualifications for financial auditors; amending s. 11.45, F.S.; revising the definition of performance audit; requiring the Auditor General to maintain a schedule of performance audits to be conducted; extending the time for certain officials to submit responses to audit findings; requiring agencies to inform the Legislative Auditing Committee of the status of audit recommendations; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote HB 1239 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Beard	Childers, D.	Crawford
Barron	Castor	Childers, W. D.	Crenshaw

Deratany	Grizzle	Mann	Stuart
Dunn	Hill	Margolis	Thomas
Fox	Jennings	McPherson	Thurman
Frank	Johnson	Meek	Vogt
Gersten	Kirkpatrick	Myers	Weinstein
Girardeau	Kiser	Neal	
Gordon	Langley	Plummer	
Grant	Malchon	Scott	

Nays—None

Vote after roll call:

Yea—Jenne, Peterson

SB 1173 was laid on the table.

Senator Stuart presiding

On motion by Senator D. Childers, by two-thirds vote HM 13 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator D. Childers—

HM 13—A memorial to the Congress of the United States urging Congress to take appropriate action to recognize the "Lake Worth, Intracoastal, Heritage Corridor."

—a companion measure, was substituted for SM 264 and read the second time in full.

On motion by Senator D. Childers, HM 13 was adopted and certified to the House. The vote on adoption was:

Yeas—34

Barron	Frank	Johnson	Neal
Beard	Gersten	Kiser	Scott
Castor	Girardeau	Langley	Stuart
Childers, D.	Gordon	Malchon	Thomas
Childers, W. D.	Grant	Mann	Thurman
Crenshaw	Grizzle	Margolis	Vogt
Deratany	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Hair, Kirkpatrick, Peterson

SM 264 was laid on the table.

On motions by Senator Meek, by two-thirds vote CS for HB 55 was withdrawn from the Committees on Health and Rehabilitative Services; Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Meek—

CS for HB 55—A bill to be entitled An act relating to county juvenile welfare services; authorizing counties to create independent special districts to provide such services; providing for boards of juvenile welfare and their membership and duties; providing financial requirements and budget procedures; authorizing levy of ad valorem taxes and requiring a referendum; requiring certain board members to post bond; authorizing funding of the board by the county; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 167 and read the second time by title. On motion by Senator Meek, by two-thirds vote CS for HB 55 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Barron	Fox	Johnson	Myers
Beard	Frank	Kirkpatrick	Neal
Castor	Gersten	Kiser	Scott
Childers, D.	Girardeau	Langley	Stuart
Childers, W. D.	Gordon	Malchon	Thomas
Crawford	Grant	Mann	Thurman
Crenshaw	Grizzle	Margolis	Vogt
Deratany	Hill	McPherson	Weinstein
Dunn	Jennings	Meek	

Nays—None

Vote after roll call:

Yea—Mr. President, Hair, Peterson

CS for CS for SB 167 was laid on the table.

The President presiding

On motions by Senator Kirkpatrick, by two-thirds vote CS for HB's 579 and 844 was withdrawn from the Committees on Education and Appropriations.

On motion by Senator Kirkpatrick—

CS for HB's 579 and 844—A bill to be entitled An act relating to State University System funding; amending s. 240.271, F.S.; allowing the Board of Regents to reduce enrollment, on a pilot basis, at any state university with an approved plan to improve the quality of undergraduate education; providing an effective date.

—a companion measure, was substituted for CS for SB 644 and read the second time by title.

Senators Stuart, Thurman and Peterson offered the following amendment which was moved by Senator Stuart and adopted:

Amendment 1—On page 2, between lines 9 and 10, insert:

Section 2. Section 240.107, Florida Statutes, is created to read:

240.107 College-level communication and computation skills examination.—

(1) It is the intent of the Legislature that the examination of college-level communication and computation skills provided in s. 229.551 serve as a mechanism for students to demonstrate that they have mastered the academic competencies prerequisite to upper-division undergraduate instruction. It is further intended that the examination serve as both a summative evaluation instrument prior to student enrollment in upper-division programs and as a source of information for student advisors. It is not intended that student passage of the examination supplant the need for a student to complete the general education curriculum prescribed by an institution.

(2) State universities and community colleges shall conduct a minimum of two administrations, one of which may consist of an alternative administration, of the college-level communication and computation skills examination per academic term. Such administrations shall be available to all lower-division students seeking associate of arts or baccalaureate degrees. State universities and community colleges shall report at a minimum the examination scores of all students who are currently enrolled in their 60th credit hour or who have completed their 60th credit hour.

(3) No state university or community college shall confer an associate of arts or baccalaureate degree upon any student who fails to complete successfully the examination of college-level communication and computation skills. Students who received their associate of arts degree prior to September 1, 1982, shall be exempt from the provisions of this subsection.

(4) The State Board of Education, by rule, shall set the minimum scores that constitute successful completion of the examination. Determinations regarding a student's successful completion of the examination shall be based on the minimum standards prescribed by rule for the date the student initially takes the examination.

Section 3. Subsection (1) of section 240.233, Florida Statutes, is amended to read:

240.233 Universities; admissions of students.—Each university shall govern admissions of students, subject to *this section and rules of* ~~minimum standards adopted by~~ the Board of Regents ~~and rules of the State Board of Education~~.

(1) *Minimum academic* ~~Each university shall develop academic standards for admission to the university. These~~ standards *for undergraduate admission to a university* shall include the requirements that:

(a) *Students have* ~~No person may be admitted, enrolled, or matriculated who has not~~ received a high school diploma pursuant to s. 232.246, or its equivalent, except as provided in s. 240.115(3).

(b) *Effective August 1, 1989, students have earned two credits of sequential foreign language at the secondary level or the equivalent of such instruction at the postsecondary level. Students who receive associate of arts degrees prior to September 1, 1987, or who enroll full-time in a program of studies leading to an associate of arts degree from a Florida community college prior to August 1, 1989, and maintain continuous full-time enrollment shall be exempt from this requirement.* ~~Effective August 1, 1987, no student may be enrolled who has not earned two credits or the equivalent in foreign language.~~

(c) Any nonexempt student who enters a state university prior to August 1, 1989, and who has not completed two credits of sequential foreign language at the secondary level or the equivalent of such instruction at the postsecondary level shall earn such credits prior to admission to the upper-division of a state university.

(d) Immunization shall be required for Rubeola, Rubella, Tetanus, and Diphtheria, for enrollment and continued enrollment in the State University System after October 1986. The manner and frequency of administration of the immunization shall conform to recognized standards of medical practice. Immunization required by this section shall be available at no cost from the local county health units.

(e) The university shall refuse admittance to any enrollee otherwise entitled to enrollment who is not in compliance with the provisions in paragraph (d).

(f) Exemptions to the provisions in paragraph (d) are permitted, provided:

1. A student presents in writing an objection to immunization due to conflicts with his religious tenets or practices;

2. A physician licensed under the provision of chapters 458, 459, or 460 certifies in writing on a form approved and provided by the Department of Health and Rehabilitative Services that the student should be exempt from the required immunization for medical reasons stated in writing based upon valid clinical reasoning or evidence demonstrating the need for the exemption at that time;

3. The Department of Health and Rehabilitative Services determines that according to recognized standards of medical practice any required immunization is unnecessary or hazardous; or

4. The president of the university issues a temporary exemption, for a period not to exceed 30 days, to permit a student transferring from out-of-state to attend class until his records are obtained or to secure the immunization.

Section 4. Section 246.013, Florida Statutes, is created to read:

246.013 Participation in the common course designation and numbering system.—Licensed, accredited nonpublic postsecondary colleges and accredited nonpublic postsecondary colleges exempt from state licensure pursuant to s. 246.085(2)(a) may participate in the common course designation and numbering system. The State Board of Education, in conjunction with the Board of Regents and State Board of Community Colleges, shall designate by rule the acceptable agencies by which colleges must be accredited in order to participate in the system. Participating colleges shall bear the costs associated with inclusion in the system. The department shall adopt a fee schedule that includes the expenses incurred through data processing, faculty task force travel and per diem, and staff and clerical support time.

Section 5. Subsection (4) of section 246.021, Florida Statutes, is amended to read:

246.021 Definitions.—As used in ss. 246.011-246.151, unless the context otherwise requires:

(4) "Agent" means a person employed by or representing a college ~~within the state~~ subject to the licensing requirements provided in ss. 246.051, 246.081, 246.091, and 246.095, or a college ~~within the state~~ not chartered by the Secretary of State as a domestic Florida corporation, to procure Florida students, enrollees, or subscribers by solicitation in any form made at a place or places other than the office or legal place of business of a college.

Section 6. Paragraph (a) of subsection (1) of section 246.031, Florida Statutes, is amended to read:

246.031 State Board of Independent Colleges and Universities.—

(1) There shall be established in the Department of Education a State Board of Independent Colleges and Universities. The department shall perform the payroll, procurement, and related administrative functions of the board. The board shall exercise independently all other functions prescribed by law. This board shall include nine members appointed by the Governor as follows:

(a) Five educators selected from private ~~community colleges~~, colleges , or universities in this state, *at least one* ~~two~~ of whom shall be selected from colleges licensed by the board.

Section 7. Subsection (1) of section 246.081, Florida Statutes, is amended to read:

246.081 License required.—

(1) No nonpublic college shall continue operation or be established within the state unless such college shall apply for, and obtain from the board, a license *or authorization* in the manner and form prescribed by the board. Upon receipt of approved articles of incorporation from the Department of State that purport to be for a college within the meaning and intent of ss. 246.011-246.151, the newly formed corporation shall, within 60 days of such approval, make an application to the board for a license as required by law. The approval of articles of incorporation by the Department of State shall not be deemed to be an authorization to engage in the operation of an institution of higher learning until such time as a license has been obtained from the board. Upon articles of incorporation being issued to an institution of higher learning, the Department of State shall immediately furnish a copy of the articles of incorporation to the board.

Section 8. Subsection (2) of section 246.091, Florida Statutes, is amended to read:

246.091 License period and renewal.—

(2) A licensed college which seeks to expand its educational program and degrees to be conferred shall file an amendment to the application. *The board shall promulgate standards for the approval of additional educational programs and degrees.*

Section 9. Section 246.111, Florida Statutes, is amended to read:

246.111 Refusal, suspension, or revocation of license.—Any *temporary license, provisional license, or* license required under the provisions of ss. 246.011-246.151 may be *denied, placed in a state of probation* ~~refused~~, revoked, or suspended by the board ~~for cause~~. *The board shall promulgate rules for denial, probation, and revocation. Placement of a college on probation for a period of time and subject to such conditions as the board may specify may also carry the imposition of an administrative fine not to exceed $5,000. Such fine shall be deposited into the State Treasury.* ~~The board shall have the power to refuse to issue a license and the power to suspend or revoke a license in any case in which the board finds that the licensee has violated any of the provisions of ss. 246.011-246.151 or the rules of the State Board of Education pertaining to ss. 246.011-246.151.~~

Section 10. The State Board of Education shall adopt rules which provide for each state university and community college to conduct regularly-scheduled purges of courses listed in the statewide course numbering system or institutional catalog that have not been taught at the institution for the preceding 5 years. Such rules shall include waiver provisions for course continuation in the event that an institution has reasonable cause for having not offered a course within the 5-year limit and an expectation that the course will be offered again within the following 5 years.

Section 11. The Board of Regents and State Board of Community Colleges shall develop a plan for implementing a computer-assisted student advising network statewide. It is intended that an advising network be developed for use by students enrolled in each of the state universities, community colleges, and public secondary schools. The implementation plan shall include, but not be limited to, the development of student-specific academic programs and an identification of information and services available to students through the network, the proposed utilization of student data available through the Florida Information Resource Network, the relationship of student enrollment patterns with plans for corresponding course offerings, the relationship of the network with the student registration process, the projected timetable for institutional availablity of the network, and any corresponding rules necessary to effect implementation of the network.

Section 12. The Board of Regents shall adopt rules to include the following provisions:

(1) The criteria for assigning limited access status to an educational program shall be delineated. A process for the periodic review of programs shall be identified so that the board can determine the need for retention or removal of limited access status.

(2) Each university shall provide registration opportunities for transfer students that allow such students access to high demand courses comparable to that provided native students. Further, each university that provides an orientation program for freshman enrollees shall also provide orientation programs for transfer students.

(3) Each university shall compile and update annually a student handbook that includes, but is not limited to, a comprehensive calendar that emphasizes important dates and deadlines, student rights and responsibilities, appeals processes available to students, and a roster of contact persons within the administrative staff available to respond to student inquiries.

Section 13. The Postsecondary Education Planning Commission shall conduct a study to determine the feasibility of developing a comprehensive articulation agreement between public and nonpublic postsecondary institutions. The results of such study shall be transmitted to the Legislature no later than February 1, 1987. The study shall include:

(1) An assessment of the need for an articulation agreement between the public and nonpublic sectors. All of the remaining areas of study are predicated on a finding that such an agreement is necessary.

(2) An identification of the requisite components of the agreement.

(3) An analysis of the predisposition of the affected sectors toward development of the agreement.

(4) An identification of any obstacles that might hinder the development of the agreement.

(5) A description of actions necessary for development of the agreement, if such an agreement is deemed feasible.

Section 14. The Articulation Coordinating Committee shall identify the competencies demonstrated by students upon the successful completion of 2 credits of sequential high school foreign language instruction. For the purpose of determining postsecondary equivalence pursuant to s. 240.233 (1)(b), the committee shall develop rules through which community colleges correlate such competencies to the competencies required of students in the colleges' respective courses. Based on this correlation, each community college shall identify the minimum number of postsecondary credits that students must earn in order to demonstrate a level of competence in a foreign language at least equivalent to that of students who have completed 2 credits of such instruction in high school. The committee may also specify alternative means by which students can demonstrate equivalent foreign language competence.

Section 15. Subsection (8) of section 240.227, Florida Statutes, is amended to read:

240.227 University presidents; powers and duties.—The president is the chief administrative officer of the university and is responsible for the operation and administration of the university. Each university president shall:

(8) Govern admissions, subject to *rules of* ~~minimum standards adopted by~~ the Board of Regents and as provided in s. 240.233.

(Renumber subsequent sections.)

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 2—On page 2, between lines 9 and 10, insert:

Section 2. Paragraph (b) of subsection (5), Florida Statutes, is repealed effective July 1, 1989, unless specifically reenacted by the Legislature prior to that date.

(Renumber subsequent section.)

Amendment 3—On page 2, lines 1 and 2, strike "Notwithstanding the provisions of paragraph (a), t" and insert: T

Senator Peterson offered the following amendment which was moved by Senator Meek and adopted:

Amendment 4—On page 2, between lines 9 and 10, insert:

Section 2. Section 240.127, Florida Statutes, is created to read:

240.127 College reach-out program.—

(1) For the purpose of increasing the number of low-income or educationally disadvantaged students in higher education, there is established the college reach-out program, to be administered by the Department of Education.

(2) The primary objective of the program shall be to strengthen the educational motivation and preparation of low-income or educationally disadvantaged students in grades 8-12 who desire and are able to profit from a college education. Such programs shall provide for on-campus and off-campus academic and advisory activities to prepare high school students for postsecondary education. These activities shall be offered during summer vacation or the academic year and, wherever possible, residential experiences.

(3) Any community college or university desiring to participate in the college reach-out program shall submit a proposal to the Department of Education. The department shall establish program guidelines, administer funds, and approve proposals. Priority consideration shall be given to proposals that:

(a) Expand linkages with similar state agencies or federally funded programs;

(b) Demonstrate evidence of successful experiences conducting similar programs previously funded under this section; or

(c) Include innovative approaches, provide a greater variety of activities, and enroll a larger number of disadvantaged and minority students.

(4) Participating colleges and universities are encouraged to use their resources to meet program objectives. Advisory committees composed of high school and junior high school personnel shall be established by the participating institutions to assist in the development of the proposal.

(5) The proposals shall be approved based upon the adequacy of information contained in the following:

(a) A statement of purpose which includes a description of the need for and the outcomes expected of the program;

(b) An identification of the service area which includes the schools to be served, community and school demographics, and postsecondary enrollment rates of high school graduates within the area;

(c) An identification and description of other existing efforts to increase the preparation of minority and disadvantaged students for postsecondary education;

(d) A description of the program which includes:

1. Student and school eligibility,

2. Program activities and the setting for each activity,

3. Activity administration and service providers,

4. Available resources and projected expenses, and

5. Cooperative plans with schools and supporting organizations;

(e) A budget which includes the identification of resources and delineation of costs by category of expenditure and type of activity; and

(f) A design for program evaluation which incorporates results, procedures, and resources.

(6) The department shall approve proposals on a competitive basis. No institution shall receive funds from this program for more than 4 years. The second, third, and fourth year funding shall be at 75 percent, 50 percent, and 25 percent of the original funded amount. The department shall also consider the needs of small institutions in the approval process.

(7) On or before November 1, 1987, and annually thereafter, each participating postsecondary education institution shall submit to the Department of Education a report on program effectiveness. The report shall include, but not be limited to:

(a) The number of students participating in the program by grade, age, and race and national origin;

(b) The number of students pursuing postsecondary education following participation in the program;

(c) An analysis of overall student performance and graduation rates following participation in the program;

(d) An analysis of the extent low-income or educationally disadvantaged students are enrolling in courses which will qualify them for college;

(e) A description of the methods used in identifying students who do not realize the value of postsecondary education; and

(f) A clear narrative statement on how the project accomplished its objectives.

(8) Funding for the program shall be provided in the General Appropriations Act.

Section 3. Paragraph (g) of subsection (3), subsection (4), and paragraph (c) of subsection (5) of section 240.311, Florida Statutes, are amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(g) *Prescribe* ~~Recommend to the State Board of Education~~ minimum standards for the operation of each community college as required in s. 240.325, which standards may include, but are not limited to, general qualifications of personnel, budgeting, accounting and financial procedures, educational programs, student admissions and services, and community services.

(4) The State Board of Community Colleges shall appoint, and may suspend or dismiss, an executive director of the community college system. The board shall fix the compensation for the executive director and for all other professional, administrative, and clerical employees necessary to assist the board and the executive director in the performance of their duties. *The State Board of Community Colleges shall be responsible, subject to rules of the Department of Administration, and the provisions of chapters 216.181 and 216.251, for personnel classification, determination of eligibility for employment, initial determination of salaries, and annual salary adjustments that relate to board staff positions in either the Senior Management, Career Service, or other personnel administrative systems administered by the Department of Administration. The Department of Education's personnel office and comptroller's office shall continue to be responsible for processing all personnel functions.* The executive director shall serve as executive officer and as secretary to the board; shall attend, but not vote at, all meetings of the board except when on authorized leave; shall be in charge of the offices of the board, including appointment and termination of staff; and shall be responsible for the preparation of reports and the collection and dissemination of data and other public information relating to the state community college system. The executive director shall conduct systemwide program reviews for board approval; prepare the legislative budget request for the system; and, upon the request of the board, represent the system before the Legislature and the State Board of Education, including representation in the presentation of proposed rules to the State Board of Education. The board may, by rule, delegate to the executive director any of the powers and duties vested in or imposed upon it by this part. Under the supervision of the board, the executive director shall administer the provisions of this part and the rules established hereunder and all other applicable laws of the state.

(5) The State Board of Community Colleges is responsible for reviewing and administering the state program of support for the state community college system and, subject to existing law, shall:

(c) Provide for and coordinate implementation of the community college program fund in accordance with provisions of ss. 240.359 and 240.323 and in accordance with rules of the State Board of *Community Colleges* ~~Education~~.

Section 4. Paragraph (f) of subsection (3) of section 240.319, Florida Statutes, is amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(3) Such rules, procedures, and policies for the boards of trustees include, but are not limited to, the following:

(f) Each board of trustees may purchase, acquire, receive, hold, own, manage, lease, sell, dispose of, and convey title to real property, in the best interests of the college, pursuant to rules adopted by the State Board of Education *and the State Board of Community Colleges.*

Section 5. Section 240.325, Florida Statutes, is amended to read:

240.325 Minimum standards, definitions, and guidelines for community colleges.—The State Board of *Community Colleges* ~~Education~~ shall prescribe minimum standards, definitions, and guidelines for community colleges which will assure quality education, systemwide coordination, and that the purposes of the community college are attained. Such guidelines may include, but are not limited to, the following areas:

(1) Personnel.

(2) Contracting.

(3) Program offerings and classification including college-level communication and computation skills associated with successful performance in college, with tests and other assessment procedures which measure student achievement of those skills. It should be provided that students moving from one level of education to the next acquire the necessary competencies for that level.

(4) Provisions for curriculum development, graduation requirements, college calendars, and program service areas.

(5) Student admissions, conduct and discipline, nonclassroom activities, and fees.

(6) Budgeting.

(7) Business and financial matters.

(8) Student services.

(9) Reports, surveys, and information systems, including forms and dates of submission.

Section 6. Paragraph (a) of subsection (1) of section 240.335, Florida Statutes, is amended to read:

240.335 Employment of community college personnel; discrimination in granting salary prohibited.—

(1)(a) Employment of all personnel in each community college shall be upon recommendation of the president, subject to rejection for cause by the board of trustees; to the rules ~~and regulations~~ of the State Board of *Community Colleges* ~~Education~~ relative to certification, tenure, leaves of absence of all types, including sabbaticals, remuneration, and such other conditions of employment as the State Board of Community Colleges deems necessary and proper; and to policies of the board of trustees not inconsistent with law.

Section 7. Subsection (1) of section 240.345, Florida Statutes, is amended to read:

240.345 Financial support of community colleges.—

(1) STATE SUPPORT OF COMMUNITY COLLEGES.—Each community college which has been approved by the Department of Education and meets the requirements of law and *rules* ~~regulations~~ of the State Board of Education *and the State Board of Community Colleges* shall participate in the state community college program fund.

(2) STUDENT FEES.—

(a) Fees may be charged to students attending a community college only as authorized by this part.

(b) The State Board of Community Colleges shall adopt rules permitting the deferral of registration and tuition fees for those students who receive financial aid from federal or state assistance programs when such aid is delayed in being transmitted to the student through circumstances beyond the control of the student. The failure to make timely application for such aid is insufficient reason to receive such deferral.

1. A veteran or other eligible student who receives benefits under chapter 32, chapter 34, or chapter 35, 38 U.S.C., is entitled to one deferment each academic year and an additional deferment each time there is a delay in the receipt of his benefits.

2. In adopting such rules, the State Board of Community Colleges is required to enforce the collection of or otherwise settle delinquent accounts.

3. The State Board of Education shall require that each institution within the community college system withdraw all requests for course approval from the Veterans Administration for education programs offered in correctional facilities which are provided through state funding at no cost to the inmate.

(c) Any dependent child of a special risk member as defined in s. 121.021(15) is entitled to a full waiver of undergraduate fees if the special risk member was killed in the line of duty. This waiver applies until the child's 25th birthday. To qualify for this waiver, the child is required to meet regular admission requirements.

Section 8. Paragraph (a) of subsection (1) of section 240.349, Florida Statutes, is amended to read:

240.349 Requirements for participation in Community College Program Fund.—

(1) Each district which participates in the state appropriations for the Community College Program Fund shall provide evidence of its effort to maintain an adequate community college program which shall:

(a) Meet the minimum standards prescribed by the State Board of *Community Colleges* ~~Education~~ in accordance with s. 240.325.

Section 9. Subsections (5) and (8) of section 240.35, Florida Statutes, are amended to read:

240.35 Student fees.—

(5) Each community college district board of trustees may establish a separate activity and service fee not to exceed 10 percent of the matriculation fee, according to rules of the State Board of *Community Colleges* ~~Education~~. The student activity and service fee shall be collected as a component part of the *matriculation* ~~registration~~ and tuition fees. The student activity and service fees shall be paid into a student activity and service fund at the community college and shall be expended for lawful purposes to benefit the student body in general. These purposes shall include, but are not limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the community college without regard to race, sex, or religion.

(8) A community college may not charge any fee, except as authorized by law or rules of the State Board of *Community Colleges* ~~Education~~.

Section 10. Subsection (1) of section 240.353, Florida Statutes, is amended to read:

240.353 Procedure for determining number of instruction units for community colleges.—The number of instruction units for community colleges in districts which meet the requirements of law for operating a community college shall be determined from the full-time equivalent students in the community college, provided that full-time equivalent students may not be counted more than once in determining instruction units. Instruction units for community colleges shall be computed as follows:

(1) One unit for each 12 full-time equivalent students at a community college for the first 420 students and one unit for each 15 full-time equivalent students for all over 420 students, in other than vocational programs as defined by rules of the State Board of *Community Colleges* ~~Education~~, and one unit for each 10 full-time equivalent students in vocational programs and compensatory education programs as defined by rules of the State Board of *Community Colleges* ~~Education~~. Full-time equivalent students enrolled in a community college shall be defined by rules of the State Board of *Community Colleges* ~~Education~~.

Section 11. Subsections (1) and (3) of section 240.355, Florida Statutes, are amended to read:

240.355 State Board of Education *and State Board of Community Colleges* rules with respect to vocational education programs; minimum requirements; criteria for determining level of degree or certificate; common definitions; basic skills standards.—

(1) The State Board of *Community Colleges* ~~Education~~ shall adopt rules which will enable each community college district board of trustees to initiate and provide comprehensive vocational education programs. The State Board of *Community Colleges* ~~Education~~ shall adopt procedures for determining the extent to which minimum requirements are being met. Furthermore, procedures shall include examination of the employment performance of program graduates. The minimum requirements so adopted shall include standards of educational output, with particular emphasis on job placement *which must be at least equal to, but which may exceed those standards established pursuant to s. 229.551(3)(g)* and satisfactory performance in employment. All such procedures should take into account the cost of the procedure. Whenever possible, proven research methods, including sampling, shall be utilized. It is the further responsibility of community college placement personnel to make written recommendations to the president of the community college for consideration by the board of trustees concerning areas of curriculum deficiency which have an adverse effect on the employability of job candidates or progress in subsequent educational activities. Whenever possible, vocational fundamental courses shall be developed for knowledge and competencies basic to clusters of occupations.

(3) The State Board of Education *and the State Board of Community Colleges* shall, by rule, adopt common definitions for associate in science degrees and for certificates.

Section 12. Paragraphs (a) and (c) of subsection (1), subsection (2), and paragraph (f) of subsection (3) of section 240.359, Florida Statutes, are amended to read:

240.359 Procedure for determining state financial support and annual apportionment of state funds to each community college district.—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 240.313 shall be as follows:

(1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE STATE COMMUNITY COLLEGE PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

(a) The Department of Education shall determine annually from an analysis of operating costs, prepared in the manner prescribed by rules of the State Board of *Community Colleges* ~~Education~~, the costs per full-time equivalent student served in courses and fields of study offered in community colleges. This information and current college operating budgets shall be submitted to the Executive Office of the Governor with the legislative budget request prior to each regular session of the Legislature.

(c) The State Board of Education *and the State Board of Community Colleges* shall adopt rules to implement s. 9(d)(8)f., Art. XII of the State Constitution. These rules shall provide for the use of the funds available under s. 9(d)(8)f., Art. XII by an individual community college for operating expense in any fiscal year during which the State Board of Education has determined that all major capital outlay needs have been met. Highest priority for the use of these funds for purposes other than financing approved capital outlay projects shall be for the proper maintenance and repair of existing facilities for projects approved by the State Board of Education. However, in any fiscal year in which funds from this source are authorized for operating expense other than approved maintenance and repair projects, the allocation of community college program funds shall be reduced by an amount equal to the sum used for such operating expense for that community college that year, and that amount shall not be released or allocated among the other community colleges that year.

(2) DETERMINING THE AMOUNT TO BE INCLUDED FOR CAPITAL OUTLAY AND DEBT SERVICE.—The amount included for capital outlay and debt service shall be as determined and provided in s. 18, Art. XII of the State Constitution of 1885, as adopted by s. 9(d), Art. XII of the 1968 revised State Constitution and State Board of Education *and State Board of Community Colleges* rules.

(3) DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(f) The apportionment to each community college district for capital outlay and debt service shall be the amount determined in accordance with subsection (2). This amount, less any amount determined as necessary for administrative expense by the State Board of Education and any amount necessary for debt service on bonds issued by the State Board of Education, shall be transmitted to the community college district board of trustees to be expended in a manner prescribed by rules of the State Board of Education *and the State Board of Community Colleges.*

Section 13. Subsections (1), (3), and (8) of section 240.36, Florida Statutes, are amended to read:

240.36 Florida Academic Improvement Trust Fund for Community Colleges.—

(1) There is created the Florida Academic Improvement Trust Fund for Community Colleges to be administered according to rules of the State Board of *Community Colleges* ~~Education~~. This trust fund shall be used to encourage private support in enhancing public community colleges by providing community colleges with the opportunity to receive and match challenge grants.

(3) For every year in which there is a legislative appropriation to the trust fund, funds sufficient to provide each community college with the opportunity to match at least one challenge grant shall be reserved. The balance of the funds shall be available for matching by any community college. Trust funds which remain unmatched by contribution or pledge on March 1 of any year shall also be available for matching by any community college. The State Board of *Community Colleges* ~~Education~~ shall adopt rules providing all community colleges with an opportunity to apply for excess trust funds prior to the awarding of such funds. However, no community college may receive more than $100,000 of the excess funds.

(8) The State Board of *Community Colleges* ~~Education~~ shall establish rules to provide for the administration of this fund. Such rules shall establish the minimum challenge grant reserved for each college and the maximum amount which a college may receive from a legislative appropriation in any fiscal year in accordance with the provisions of the General Appropriations Act.

Section 14. Section 240.361, Florida Statutes, is amended to read:

240.361 Budgets for community colleges.—The president of each community college shall recommend to the board of trustees a budget of income and expenditures at such time and in such form as the state board may prescribe. Upon approval of a budget by the board of trustees, such budget shall be transmitted to the State Board of Community Colleges and the Department of Education for review and approval. Rules ~~and regulations~~ of the State Board of *Community Colleges* ~~Education~~ shall prescribe procedures for effecting budget amendments subsequent to the final approval of a budget for a given year.

Section 15. Section 240.363, Florida Statutes, is amended to read:

240.363 Financial accounting and expenditures.—All funds accruing to the benefit of a community college shall be received, accounted for, and expended in accordance with rules ~~and regulations~~ of the State Board of *Community Colleges* ~~Education~~.

Section 16. Section 240.377, Florida Statutes, is amended to read:

240.377 Promotion and public relations, funding.—Each community college is authorized to budget and use a portion of the funds accruing to it from auxiliary enterprises and undesignated gifts for promotion and public relations as prescribed by *rules* ~~regulations~~ of the State Board of *Community Colleges* ~~Education~~. Such funds may be used to provide expenditures for hospitality of business guests at the college or elsewhere. However, such hospitality expenses may not exceed the amount authorized for such contingency fund as prescribed by rules of the State Board of *Community Colleges* ~~Education~~.

Section 17. Section 240.379, Florida Statutes, is amended to read:

240.379 Certain chapters inapplicable to community colleges.—Chapters 231, 233, 234, 236, and 237 are not applicable to community colleges, except for those sections specifically referred to in this part and in the State Board of Education *or the State Board of Community Colleges* rules.

Section 18. Paragraph (d) of subsection (3) of section 240.311, Florida Statutes, is amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(d) Ensure that the rules and procedures of community college district boards relating to admission to, enrollment in, employment in, and programs, services, functions, and activities of each college provide equal access and equal opportunity for all persons. *The State Board of Community Colleges shall report evidence of community college compliance with s. 228.2001 to the Commissioner of Education.*

Section 19. Subsection (7) of section 228.2001, is amended to read:

228.2001 Discrimination against students and employees in state system of public education; prohibitions; equality of access; strategies to overcome underrepresentation; remedies.—

(7) The Board of Regents *and the State Board of Community Colleges* shall comply with all of the requirements and duties as provided in subsection (6), except that the Commissioner of Education may delegate to the Chancellor of the State University System *and the Executive Director of the State Board of Community Colleges* any duties required of the commissioner with regard to this section.

(Renumber subsequent sections.)

Senators Stuart, Thurman and Peterson offered the following Amendment which was moved by Senator Stuart and adopted:

Amendment 5—In title, on page 1, line 7, after the semicolon (;) insert: A bill to be entitled An act relating to postsecondary education; creating s. 240.107, F.S.; establishing legislative intent for the college-level communication and computation skills examination; providing administration and reporting requirements; requiring successful examination completion for degree conference; providing an exemption; amending s. 240.233, F.S.; modifying provisions relating to rules and standards for university admissions; postponing the foreign language requirement for university admission; providing an exemption; creating s. 246.013, F.S.; authorizing participation of certain nonpublic postsecondary colleges in the common course designation and numbering system; providing for costs and fees; amending s. 246.021, F.S.; modifying definition of "agent"; amending s. 246.031, F.S.; modifying membership of the State Board of Independent Colleges and Universities; amending s. 246.081, F.S.; providing for authorization to establish or continue operation of a nonpublic college; amending s. 246.091, F.S.; providing for standards for approval of expanded educational programs and degrees; amending s. 246.111, F.S.; providing for rules for license denial, probation, and revocation; providing for imposition of an administrative fine; directing the State Board of Education to adopt rules related to purges of certain courses; directing the Board of Regents and the State Board of Community Colleges to develop a plan for implementing a computer-assisted student advising system; directing the Board of Regents to adopt rules relating to limited access programs, registration and orientation, and student handbooks; directing the Postsecondary Education Planning Commission to study the feasibility of an articulation agreement between public and nonpublic postsecondary institutions; directing the Articulation Coordinating Committee to develop rules regarding the equivalence of certain foreign language instruction; amending s. 240.227, F.S.; to conform to the act; providing an effective date.

Senator Gordon offered the following amendment which was moved by Senator Kirkpatrick and adopted:

Amendment 6—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 240.147, F.S.; expanding the duties of the Postsecondary Education Planning Commission;

Senator Peterson offered the following amendment which was moved by Senator Meek and adopted:

Amendment 7—In title, on page 1, line 10, after the semicolon (;) insert: creating s. 240.127, F.S.; establishing the college reach-out program; providing grants to strengthen the educational motivation of low-income or educationally disadvantaged students; requiring a report on program effectiveness; amending ss. 240.311, 240.325, 240.349, 240.35, 240.353, 240.355, 240.359, 240.36, 240.361, and 240.377, F.S.; substituting the State Board of Community Colleges for the State Board of Education; amending s. 240.311, F.S.; requiring the State Board of Community Colleges to prescribe minimum standards for community college operations; amending ss. 240.319, 240.345, 240.359, 240.363, and 240.379, F.S.; adding reference to State Board of Community Colleges rules; amending s. 228.2001, F.S.; allowing the Commissioner of Education to delegate certain authorization to the Executive Director of the State Board of Community Colleges;

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 8—In title, on page 1, line 7, following the semicolon (;) insert: repealing s. 240.271, F.S. allowing the Board of Regents to reduce enrollment without reducing enrollment-based funding;

On motion by Senator Kirkpatrick, by two-thirds vote CS for HB's 579 and 844 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gersten	Kiser	Plummer
Beard	Girardeau	Langley	Stuart
Childers, D.	Gordon	Malchon	Thomas
Childers, W. D.	Grant	Mann	Thurman
Crawford	Grizzle	Margolis	Vogt
Crenshaw	Hill	McPherson	Weinstein
Deratany	Jennings	Meek	
Dunn	Johnson	Myers	
Fox	Kirkpatrick	Neal	

Nays—1

Frank

Vote after roll call:

Yea—Jenne, Peterson

CS for SB 644 was laid on the table.

On motion by Senator Frank, consideration of CS for SB 895 was deferred until 11:22 a.m. this day.

On motions by Senator Kiser, by two-thirds vote CS for HB 619 was withdrawn from the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Kiser—

CS for HB 619—A bill to be entitled An act relating to the beverage law; creating s. 561.68, F.S.; providing for licensing of distributor's salesmen of spirituous and vinous beverages; providing an effective date.

—a companion measure, was substituted for CS for SB 935 and read the second time by title.

Senator Kiser moved the following amendment which was adopted:

Amendment 1—On page 2, line 13, a new Section 2 is added to read:

Section 2. Any person employed as a salesman of spirituous or vinous beverages for a licensed Florida distributor on the effective date of this act shall not be required to submit a set of fingerprints to the Division with his application for licensure.

(Renumber subsequent section.)

On motion by Senator Kiser, by two-thirds vote CS for HB 619 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Dunn	Johnson	Myers
Barron	Fox	Kiser	Plummer
Beard	Gersten	Langley	Scott
Castor	Girardeau	Malchon	Stuart
Childers, D.	Gordon	Mann	Thomas
Childers, W. D.	Grant	Margolis	Thurman
Crenshaw	Grizzle	McPherson	Vogt
Deratany	Jennings	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Neal

CS for SB 935 was laid on the table.

SB 1036—A bill to be entitled An act relating to hospitals; requiring certain hospitals providing emergency room services to admit certain patients without regard to economic criteria; providing for transfer of such patients under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Gersten, by two-thirds vote SB 1036 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Dunn	Jennings	Peterson
Barron	Fox	Johnson	Plummer
Beard	Gersten	Kiser	Stuart
Castor	Girardeau	Langley	Thomas
Childers, D.	Gordon	Mann	Vogt
Childers, W. D.	Grant	Margolis	Weinstein
Crenshaw	Grizzle	McPherson	
Deratany	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Neal

CS for SB 39—A bill to be entitled An act relating to recipients of educational loans; requiring that certain persons who are in default in the repayment of such loans and who are employed by the state or any of its political subdivisions repay such loans; limiting grounds for dismissal of certain employees who are recipients of such loans; providing for the Administration Commission to adopt rules; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendments which were adopted:

Amendment 1—On page 2, line 16, after "act" insert: , which shall include but not be limited to, a standard method of calculating amounts to be withheld from employees who have failed to establish a repayment schedule within the specified period of time or failed to meet the terms and conditions of the agreed to or approved repayment schedule provided for in this act. Such methods shall consider the following factors:

(1) The amount of the loan which remains outstanding;

(2) The income of the employee who owes such amount; and

(3) Other factors such as the number of dependents supported by the employee.

Amendment 2—On page 2, strike all of lines 6-9, and insert: repayment of the loan.

On motion by Senator Grant, by two-thirds vote CS for SB 39 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Mr. President	Dunn	Jennings	Neal
Barron	Fox	Johnson	Peterson
Beard	Frank	Kiser	Plummer
Childers, D.	Gersten	Langley	Scott
Childers, W. D.	Girardeau	Mann	Stuart
Crawford	Grant	Margolis	Thomas
Crenshaw	Grizzle	McPherson	Weinstein
Deratany	Hill	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

On motion by Senator Girardeau, by two-thirds vote HB 987 was withdrawn from the Committee on Commerce.

On motion by Senator Girardeau—

HB 987—A bill to be entitled An act relating to insurance; amending s. 626.321, F.S.; providing for limited insurance agent licenses to transact industrial fire insurance or burglary insurance; providing an effective date.

—a companion measure, was substituted for SB 1213 and read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 987 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Mr. President	Crenshaw	Jennings	Myers
Barron	Dunn	Johnson	Plummer
Beard	Fox	Langley	Scott
Childers, D.	Frank	Mann	Stuart
Childers, W. D.	Girardeau	Margolis	Thomas
Crawford	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Kirkpatrick, Neal

SB 1213 was laid on the table.

On motions by Senator Myers, by two-thirds vote CS for CS for HB 320 was withdrawn from the Committees on Health and Rehabilitative Services; and Economic, Community and Consumer Affairs.

On motion by Senator Myers—

CS for CS for HB 320—A bill to be entitled An act relating to mosquito control; creating s. 388.0101, F.S.; providing legislative intent; amending s. 388.011, F.S.; providing definitions; amending s. 388.021, F.S.; providing for the control of arthropods in certain areas; amending s. 388.101, F.S.; revising provisions with respect to district boards of commissioners; amending s. 388.141, F.S.; increasing the amount of salary which may be paid to district boards of commissioners; amending s. 388.201, F.S.; modifying the time for promulgation and notice of certain district budget proceedings; amending s. 388.221, F.S.; modifying district taxing procedures and providing for compensation for county tax officers; amending s. 388.241, F.S., relating to the authority of the boards of county commissioners of certain counties with respect to mosquito control; amending s. 388.271, F.S.; directing the Department of Health and Rehabilitative Services to guide and approve activities of agencies receiving state funds for arthropod control; amending s. 388.281, F.S., relating to the use of state funds for source reduction and enhancement of ecological integrity; amending s. 388.291, F.S.; providing for source reduction rather than eliminative control; amending s. 388.361, F.S.; providing for rules of the Department of Health and Rehabilitative Services; creating s. 388.3711, F.S.; providing for enforcement; creating s. 388.4111, F.S.; providing for arthropod control on public lands; amending s. 388.42, F.S.; providing for the duties of the West Florida Arthropod Research Laboratory; creating s. 388.45, F.S.; authorizing the Secretary of Health and Rehabilitative Services to declare a threat to public health with respect to infectious diseases transmitted by arthropods; creating s. 388.46, F.S.; creating the Florida Coordinating Council on Mosquito Control; providing for review and repeal; providing effective dates.

—a companion measure, was substituted for CS for SB 1235 and read the second time by title. On motion by Senator Myers, by two-thirds vote CS for CS for HB 320 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Dunn	Johnson	Peterson
Barron	Fox	Kirkpatrick	Plummer
Beard	Frank	Kiser	Scott
Childers, D.	Girardeau	Malchon	Stuart
Childers, W. D.	Gordon	Mann	Thomas
Crawford	Grant	Margolis	Thurman
Crenshaw	Hill	McPherson	Weinstein
Deratany	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal

CS for SB 1235 was laid on the table.

SB 925—A bill to be entitled An act relating to reckless driving; amending s. 316.192, F.S.; authorizing suspension of driving privileges of certain persons convicted of reckless driving; providing for substance abuse courses; authorizing issuance of driving permits for employment purposes; providing an effective date.

—was read the second time by title.

Senator Weinstein moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 15 and 16, insert:

Section 2. Subsection (1) of s. 322.271, Florida Statutes, is amended to read:

322.271 Authority to modify revocation, cancellation, or suspension order.—

(1)(a) Upon the suspension, cancellation, or revocation of the driver's license of any person as authorized or required in this chapter, except a person whose license is revoked as a habitual traffic offender under s. 322.27(5) or a person who is ineligible to be granted the privilege of driving on a limited or restricted basis under subsection (2), the department shall immediately notify the licensee and, upon his request, shall afford him an opportunity for a hearing pursuant to chapter 120, as early as practicable within not more than 30 days after receipt of such request, in the county wherein the licensee resides, unless the department and the licensee agree that such hearing may be held in some other county. In making its determination, the department may require a reexamination of the licensee.

(b) A person whose driving privilege has been revoked under s. 322.27(5) may, upon expiration of 12 months from the date of such revocation, petition the department for restoration of his driving privilege. Upon such petition and after investigation of the person's qualification, fitness, and need to drive, the department shall hold a hearing pursuant to chapter 120 to determine whether the driving privilege shall be restored on a restricted basis solely for business or employment purposes.

(c) A driving privilege restricted for business purposes only authorizes any driving necessary to maintain one's livelihood, including driving to and from work, necessary on-the-job driving, driving for educational, religious, and medical purposes. A driving privilege restricted for employment purposes only authorizes driving to and from work and necessary on-the-job driving required by one's employer or occupation. No driving for any purpose not specified by this paragraph is allowed under a driving privilege restricted to business or employment purposes.

Amendment 2—On page 2, line 13, strike "*educational*" and insert: *business*

Amendment 3—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 327.271, F.S.; providing definitions for restricted driving privileges;

On motion by Senator Weinstein, by two-thirds vote SB 925 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Mr. President	Fox	Kiser	Scott
Beard	Frank	Malchon	Stuart
Childers, D.	Girardeau	Mann	Thomas
Childers, W. D.	Grant	Margolis	Thurman
Crawford	Hill	McPherson	Vogt
Crenshaw	Jennings	Meek	Weinstein
Deratany	Johnson	Myers	
Dunn	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal

Consideration of SB 442 was deferred.

On motion by Senator Stuart, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives returns CS for SB 460 as requested.

Allen Morris, Clerk

CS for SB 460—A bill to be entitled An act relating to health insurance; creating the "Child Health Assurance Act"; creating ss. 627.6416, 627.6579, F.S.; requiring certain individual and group, blanket, or franchise health insurance policies and health care services plan contracts to provide coverage for child health supervision services; providing definitions; providing exceptions; amending s. 627.651, F.S.; requiring compliance by multiple-employer welfare arrangements; amending s. 627.6515, F.S.; providing a cross reference with respect to out-of-state groups; providing for review and repeal; providing an effective date.

On motion by Senator Stuart, the Senate reconsidered the vote by which CS for SB 460 as amended passed June 4.

On motion by Senator Stuart, the Senate reconsidered the vote by which Amendment 1 was adopted.

Amendment 1 was adopted.

Amendment 1—On page 4, line 21, strike "1992" and insert: 1989

CS for SB 460 as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Mr. President	Fox	Johnson	Neal
Barron	Frank	Kiser	Scott
Beard	Gersten	Malchon	Stuart
Childers, D.	Girardeau	Mann	Thomas
Childers, W. D.	Grant	Margolis	Thurman
Crenshaw	Grizzle	McPherson	Vogt
Deratany	Hill	Meek	
Dunn	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

SPECIAL ORDER, continued

On motion by Senator Vogt, by two-thirds vote HCR 471 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Vogt—

HCR 471—A concurrent resolution supporting the designation of "Space Pioneers Memorial Day," to be commemorated annually on January 28th.

—a companion measure, was substituted for SM 568 and read the second time in full. On motion by Senator Vogt, HCR 471 was adopted and certified to the House. The vote on adoption was:

Yeas—35

Mr. President	Fox	Jennings	Meek
Beard	Frank	Johnson	Myers
Castor	Gersten	Kirkpatrick	Neal
Childers, D.	Girardeau	Kiser	Peterson
Childers, W. D.	Gordon	Langley	Stuart
Crawford	Grant	Malchon	Thomas
Crenshaw	Grizzle	Mann	Thurman
Deratany	Hill	Margolis	Vogt
Dunn	Jenne	McPherson	

Nays—None

SM 568 was laid on the table.

Consideration of Resolution

On motions by Senator Vogt—

SCR 944—A concurrent resolution recognizing and commemorating a 1783 naval engagement off Florida's east coast as the closing shots of America's War for Independence.

WHEREAS, On March 10, 1783, the Continental frigate Alliance exchanged cannon volleys with the British warship Sybil in waters off Brevard County, and

WHEREAS, the Alliance and its French-built consort Duc de Lauzun were enroute to Newport, Rhode Island, with a precious cargo of gold being loaned to the new American Republic by its ally France when spotted and chased by three British men-of-war, and

WHEREAS, the gallant actions of Alliance's officers and crew as commanded by Captain John Barry resulted in severe damage to the British vessel and permitted the American ships to complete their mission, and

WHEREAS, patriots gave their lives for liberty in this "Battle Off Florida" that has been located by entries in the HMS Sybil's log as "30 leagues from Cape Canaveral" with coordinates off Brevard's coast, and

WHEREAS, most Americans believe that the American Revolution concluded at Yorktown when in fact the final shots were fired in the "Battle Off Florida" 6 months prior to the treaty which formalized peace, and

WHEREAS, the Legislature of the State of Florida desires to honor the memory of the officers and seamen of the Continental Navy and recognize the historical significance of the "Battle Off Florida," NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the State of Florida hereby recognizes the well-documented naval engagement as a significant moment in American history that marked the closing shots of the War for Independence.

—was taken up out of order by unanimous consent, read the second time in full, adopted and certified to the House. The vote on adoption was:

Yeas—33

Mr. President	Fox	Johnson	Neal
Barron	Frank	Kiser	Scott
Beard	Gersten	Langley	Stuart
Childers, D.	Girardeau	Malchon	Thomas
Childers, W. D.	Gordon	Mann	Thurman
Crawford	Grant	Margolis	Vogt
Crenshaw	Grizzle	McPherson	
Deratany	Hill	Meek	
Dunn	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

SPECIAL ORDER, continued

Consideration of CS for SB 119 was deferred.

Senator W. D. Childers presiding

CS for SB 369—A bill to be entitled An act relating to retirement; amending s. 112.362, F.S.; providing minimum monthly benefits for certain members of state-supported retirement systems and their beneficiaries; providing for retroactive application; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Thurman and adopted:

Amendment 1—On page 5, line 14, insert a new Section 3 to read:

Section 3. Effective October 1, 1986, the respective percentage contribution rates applicable to employers of members of the regular class of the Florida Retirement System, members of the special risk (non administrative) class of the Florida Retirement System, members of the county officials class of the Florida Retirement System, and members of the Legislature, Attorneys and Cabinet class of the Florida Retirement System shall each be increased respectively by .05, .01, .06, and .08 to fund the provisions of this act. Said increases shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on said date.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 6, following the semicolon (;) insert: providing for increased contributions;

On motion by Senator Thurman, by two-thirds vote CS for SB 369 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Barron	Fox	Jennings	Myers
Beard	Frank	Johnson	Plummer
Childers, D.	Gersten	Kiser	Scott
Childers, W. D.	Girardeau	Malchon	Stuart
Crawford	Gordon	Mann	Thomas
Crenshaw	Grant	Margolis	Thurman
Deratany	Grizzle	McPherson	Weinstein
Dunn	Hill	Meek	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Neal

Consideration of CS for SB 527 was deferred.

HB 1039—A bill to be entitled An act relating to county boundaries; amending ss. 7.19 and 7.65, F.S., to redefine the boundary between Franklin and Wakulla Counties; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote HB 1039 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Barron	Frank	Kirkpatrick	Scott
Childers, D.	Gersten	Kiser	Stuart
Childers, W. D.	Girardeau	Langley	Thomas
Crawford	Grant	Malchon	Thurman
Crenshaw	Grizzle	Margolis	Weinstein
Deratany	Hill	Meek	
Dunn	Jennings	Myers	
Fox	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

On motions by Senator Dunn, by two-thirds vote HB 1270 was withdrawn from the Committees on Judiciary-Criminal, Judiciary-Civil and Appropriations.

On motion by Senator Dunn—

HB 1270—A bill to be entitled An act relating to criminal practices; creating chapter 772, F.S., to be known as the "Civil Remedies for Criminal Practices Act"; providing definitions; making unlawful the receipt of proceeds from certain criminal activities; requiring criminal intent; making unlawful the acquisition or maintenance through certain criminal activities of an interest in or participation in enterprises or real property; providing a civil cause of action to victims of certain criminal activities; providing for estoppel in certain civil actions against convicted persons; providing for admissibility of guilty verdicts; providing statute of limitations for certain civil actions; providing for suspension of statute of limitations under certain circumstances; providing for remedies to be nonexclusive; providing for election of cause of action by plaintiff; providing immunity from damages for governmental entities; providing for attorneys' fees to be taxed as costs; amending s. 812.035, F.S., limiting a civil remedy to the state; amending s. 895.05, F.S.; limiting a civil remedy to the state; clarifying right to jury trial; providing for priorities on forfeited properties; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 891 and read the second time by title.

Senator Dunn moved the following amendment:

Amendment 1—On page 2, line 1, strike everything after the enacting clause and insert:

Section 1. Section 16.53, Florida Statutes, is amended to read:

16.53 Legal Affairs Revolving Trust Fund.—

(1) There is created in the State Treasury the Legal Affairs Revolving Trust Fund, from which the Legislature may appropriate funds for the purpose of funding investigation, prosecution, and enforcement by the Attorney General of the provisions of the Racketeer Influenced and Corrupt Organization Act or state or federal antitrust laws.

(2) *Twenty* ~~Subject to the provisions of s. 895.09, 20~~ percent of all moneys recovered by the Attorney General on behalf of the state, its agencies, or units of state government and 10 percent of all moneys recovered on behalf of local governments or persons resident in this state or, alternatively, attorneys' fees and costs, whichever is greater, in any civil action for violation of ~~the Racketeer Influenced and Corrupt Organization Act or~~ state or federal antitrust laws shall be deposited in the fund.

(3)(a) Subject to the provisions of s. 895.09, when the Attorney General brings an action pursuant to s. 895.05, 20 percent of all moneys recovered on behalf of the state or an agency or unit of state government and 10 percent of all moneys recovered on behalf of a local government or a person resident in the state, or, alternatively, attorneys' fees and costs, whichever is greater, shall be deposited in the fund.

(b) Subject to the provisions of s. 895.09, when the Attorney General and a state attorney jointly bring an action pursuant to s. 895.05, 10 percent of all moneys recovered on behalf of the state or an agency or unit of state government and 5 percent of all moneys recovered on behalf of a local government or a person resident in the state, or, alternatively, attorneys' fees and costs, whichever is greater, shall be deposited in the fund.

(4)~~(3)~~(a) In the case of a forfeiture action pursuant to s. 895.05, the remainder of the moneys recovered shall be distributed as set forth in s. 895.09.

(b) In other actions brought pursuant to the provisions of the Racketeer Influenced and Corrupt Organization Act or pursuant to the state or federal antitrust laws, the remainder of the moneys recovered on behalf of the state, its agencies, or units of state government shall be deposited in the General Revenue Fund; in the case of other governmental units, transferred to the appropriate fund of such government; or in the case of persons, distributed to such persons or for their benefit, as approved by a court of competent jurisdiction.

(5)~~(4)~~ "Moneys recovered" means damages or penalties or any other monetary payment, including the balance of monetary proceeds from property forfeited to the state pursuant to s. 895.05 remaining after satisfaction of any valid claims made pursuant to s. 895.09(1)(a)-(c), which damages, penalties, or other monetary payment is made by any defendant by reason of any decree or settlement in any Racketeer Influenced and Corrupt Organization Act or state or federal antitrust action prosecuted by the Attorney General, but excludes attorneys' fees and costs.

(6)~~(5)~~ Any moneys remaining in the fund at the end of any fiscal year in excess of $2,000,000 shall be transferred to the General Revenue Fund unallocated.

Section 2. Subsection (1) of section 27.345, Florida Statutes, is amended to read:

27.345 Reimbursement of expenses in RICO forfeiture actions.—

(1)*(a) Subject to the provisions of s. 895.09, when a state attorney brings an action pursuant to s. 895.05, 20 percent of all moneys recovered on behalf of the state or an agency or unit of state government and 10 percent of all moneys recovered on behalf of a local government or a person resident in the state, or, alternatively, attorneys' fees and costs, whichever is greater, shall be deposited in the Civil RICO Trust Fund.*

(b) Subject to the provisions of s. 895.09, when a state attorney and the Attorney General jointly bring an action pursuant to s. 895.05, 10 percent of all moneys recovered on behalf of the state or an agency or unit of state government and 5 percent of all moneys recovered on behalf of a local government or a person resident in the state, or, alternatively, attorneys' fees and costs, whichever is greater, shall be deposited in the Civil RICO Trust Fund. ~~When a state attorney brings a forfeiture action pursuant to s. 895.05(2), his office shall be reimbursed for its actual expenses incurred in conducting the investigation and prosecution of the forfeiture action from the net amount recovered in the forfeiture action after satisfaction of any valid claims under s. 895.09(1)(a)-(c).~~

Section 3. Chapter 772, Florida Statutes, consisting of sections 772.01, 772.02, 772.03, 772.04, 772.10, 772.40, 772.70, 772.80, 772.85, and 772.90, Florida Statutes, is created to read:

772.01 Short title.—This chapter shall be known as the "Civil Remedies for Criminal Practices Act."

772.02 Definitions.—As used in this chapter, the term:

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 409.325, relating to public assistance fraud.

3. Chapter 517, relating to securities transactions.

4. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing, horseracing, and jai alai frontons.

5. Section 551.09, relating to jai alai frontons.

6. Chapter 552, relating to the manufacture, distribution, and use of explosives.

7. Chapter 562, relating to beverage law enforcement.

8. Chapter 687, relating to interest and usurious practices.

9. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

10. Chapter 782, relating to homicide.

11. Chapter 784, relating to assault and battery.

12. Chapter 787, relating to kidnapping.

13. Chapter 790, relating to weapons and firearms.

14. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

15. Chapter 806, relating to arson.

16. Chapter 812, relating to theft, robbery, and related crimes.

17. Chapter 815, relating to computer-related crimes.

18. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

19. Section 827.071, relating to commercial sexual exploitation of children.

20. Chapter 831, relating to forgery and counterfeiting.

21. Chapter 832, relating to issuance of worthless checks and drafts.

22. Section 836.05, relating to extortion.

23. Chapter 837, relating to perjury.

24. Chapter 838, relating to bribery and misuse of public office.

25. Chapter 843, relating to obstruction of justice.

26. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

27. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

28. Chapter 893, relating to drug abuse prevention and control.

29. Sections 914.22 and 918.23, relating to witnesses, victims, or informants.

30. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

(b) Any conduct which is subject to indictment or information as a criminal offense and listed in 18 U.S.C. s. 1961(1) (A), (B), (C), and (D).

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing, horseracing, and jai alai frontons.

2. Section 551.09, relating to jai alai frontons.

3. Section 687.071, relating to criminal usury, loan sharking, and shylocking.

4. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious if punishable as a crime under state or federal law.

(3) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and the term includes illicit as well as licit enterprises and governmental, as well as other, entities.

(4) "Pattern of criminal activity" means engaging in at least two incidents of criminal activity that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents; provided that the last of such incidents occurred within 5 years after a prior incident of criminal activity. For the purposes of this chapter, the term "pattern of criminal activity" shall not include two or more incidents of fraudulent conduct arising out of a single contract or transaction against one or more related persons.

(5) "Real property" means any real property or any direct or indirect interest in such real property. An interest in any lease of or mortgage upon real property shall be considered an interest in such real property.

(6) "Related persons" means as to natural persons, persons which are related by blood within the second degree or which are married, and as to other persons, persons which are substantially under the same direction, ownership, or control, either directly or indirectly.

772.03 Prohibited activities.—It is unlawful for any person:

(1) Who has with criminal intent received any proceeds derived, directly or indirectly, from a pattern of criminal activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(2) Through a pattern of criminal activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(3) Employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of criminal activity or the collection of an unlawful debt.

(4) To conspire or endeavor to violate any of the provisions of subsections (1), (2), or (3).

772.04 Civil cause of action.— Any person who proves by clear and convincing evidence that he has been injured by reason of any violation of the provisions of s. 772.03 shall have a cause of action for three-fold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of $200, and reasonable attorneys' fees and court costs in the trial and appellate courts. In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorneys' fees and court costs in the trial and appellate courts upon a finding that the claimant raised a claim which was without substantial fact or legal support. In awarding attorneys' fees and costs under this section, the court shall not consider the ability of the opposing party to pay such fees and costs. Nothing under this section shall be interpreted as limiting any right to recover attorneys' fees or costs provided under other provisions of law.

772.10 Civil remedy for theft.—Any person who proves by clear and convincing evidence that he has been injured in any fashion by reason of any violation of the provisions of ss. 812.012-812.037 or s. 812.081, has a cause of action for three-fold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of $200, and reasonable attorneys' fees and court costs in the trial and appellate courts. In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorneys' fees and court costs in the trial and appellate courts upon a finding that the claim-

ant raised a claim which was without substantial fact or legal support. In awarding attorneys' fees and costs under this section, the court shall not consider the ability of the opposing party to pay such fees and costs. Nothing under this section shall be interpreted as limiting any right to recover attorneys' fees or costs provided under other provisions of law.

772.40 Estoppel of defendant.—A final judgment or decree rendered in favor of the state in any criminal proceeding concerning the conduct of the defendant which forms the basis for a civil cause of action under this chapter, or in any criminal proceeding under chapter 895, shall estop the defendant in any action brought pursuant to this chapter as to all matters as to which such judgment or decree would be an estoppel as if the plaintiff had been a party in the criminal action.

772.70 Limitation of actions.—Notwithstanding any other provision of law, a civil action or proceeding under this chapter may be commenced at any time within 5 years after the conduct in violation of a provision of this act terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought or intervened in by the state or by the United States, to punish, prevent, or restrain any criminal activity or criminal conduct which forms the basis for a civil action under this chapter, the running of the period of limitations prescribed by this section shall be suspended during the pendency of such prosecution, action, or proceeding and for 2 years following its termination.

772.80 Cumulative remedy.—The application of one civil remedy under this chapter does not preclude the application of any other remedy, civil or criminal, under this chapter or any other provision of law. Civil remedies under this act are supplemental, and not mutually exclusive.

772.85 Attorneys' fees taxed as costs.—Attorneys' fees awarded under this chapter shall be taxed as costs.

772.90 Exemption.—No damages shall be recoverable under this chapter against the state, or its agencies, instrumentalities, subdivisions, or municipalities.

Section 4. Subsection (7) of section 812.035, Florida Statutes, is amended to read:

812.035 Civil remedies; limitation on civil and criminal actions.—

(7) *The state, including any of its agencies, instrumentalities, subdivisions, or municipalities, if it proves by clear and convincing evidence that it has been* ~~Any person who is~~ injured in any fashion by reason of any violation of the provisions of ss. 812.012-812.037 or s. 812.081, has a cause of action for three-fold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of $200, *and* ~~. Such person~~ shall also recover court costs and reasonable attorneys' fees in the trial and appellate courts. *In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorneys' fees and court costs in the trial and appellate courts upon a finding that the claimant raised a claim which was without substantial fact or legal support.*

Section 5. Paragraph (b) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(b) Any conduct defined as "racketeering activity" under 18 U.S.C. s. 1961(1)~~(A), (B), (C), and (D)~~.

Section 6. Subsection (7) of section 895.05, Florida Statutes, is amended to read:

895.05 Civil remedies.—

(7) *The state, including any of its agencies, instrumentalities, subdivisions, or municipalities, if it proves by clear and convincing evidence that it has been* ~~Any person who is~~ injured by reason of any violation of the provisions of s. 895.03, shall have a cause of action for threefold the actual damages sustained and~~, when appropriate, punitive damages. Such person~~ shall also recover attorneys' fees in the trial and appellate courts and costs of investigation and litigation, reasonably incurred. *In no event shall punitive damages be awarded. The defendant shall be entitled to recover reasonable attorneys' fees and court costs upon a finding that the claimant raised a claim which was without substantial fact or legal support.*

(a) *Either party* ~~The defendant or any injured person~~ may demand a trial by jury in any civil action brought pursuant to this *subsection* ~~section~~.

(b) Any *prevailing plaintiff under this subsection or s. 772.04* ~~injured person~~ shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds.

Section 7. Subsections (2) and (5) of section 895.09, Florida Statutes, are amended to read:

895.09 Disposition of funds obtained through forfeiture proceedings.—

(2)(a) Following satisfaction of all valid claims under subsection (1), 50 percent of the remainder of the funds obtained in the forfeiture proceedings pursuant to s. 895.05(2) shall be deposited in the Forfeited Property Trust Fund of the Department of Natural Resources. *The other 50 percent of the remainder shall be deposited in the general fund of the county or municipality responsible for the forfeiture. If law enforcement personnel of several counties or municipalities contributed significantly to the forfeiture of the property, the court which entered the judgment of forfeiture shall make a pro rata apportionment among such counties and municipalities. If a state law enforcement agency is responsible for the forfeiture,* ~~and~~ 50 percent of the funds shall be deposited into the general fund of the county in which the court entering the judgment of forfeiture is located.

(b) On a quarterly basis, any excess funds, including interest, over $1,000,000 deposited in the Forfeited Property Trust Fund in accordance with this subsection shall be deposited in the General Revenue Fund of the state.

(5) The "actual expenses" for which a state attorney's office or a law enforcement agency may be reimbursed pursuant to ~~paragraph (1)(d) or~~ paragraph (1)(e) include all taxable costs; costs of protecting, maintaining, and forfeiting the property; and such other costs as are determined by the court to be directly attributable to the action. ~~However, such reimbursement shall not include employees' salaries.~~

Section 8. This act shall apply to all civil proceedings commenced on or after October 1, 1986, provided that sections 1, 2, 5, and 7 shall also apply to all civil proceedings pending on October 1, 1986 for which a distribution of proceeds under s. 895.09, Florida Statutes, has yet to be determined.

Section 9. This act shall take effect October 1, 1986.

Further consideration of HB 1270 was deferred.

CS for CS for SB 730—A bill to be entitled An act relating to juveniles; amending s. 39.14, F.S.; providing for a state right to appeal in juvenile cases; creating s. 39.145, F.S.; providing additional grounds for appeal by the state; creating s. 39.146, F.S.; stating requirements for the state when appellate court rules on the appeal; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote CS for CS for SB 730 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Frank	Johnson	Plummer
Childers, D.	Gersten	Kiser	Stuart
Childers, W. D.	Girardeau	Langley	Thomas
Crawford	Grizzle	Malchon	Thurman
Crenshaw	Hair	Mann	Vogt
Deratany	Hill	Margolis	Weinstein
Dunn	Jenne	McPherson	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Neal

The President presiding

On motions by Senator Vogt, by two-thirds vote CS for CS for HB 175 was withdrawn from the Committees on Transportation and Appropriations.

On motion by Senator Vogt—

CS for CS for HB 175—A bill to be entitled An act relating to motor vehicle safety equipment; amending s. 316.515, F.S., authorizing the Department of Transportation to issue special permits for semitrailers for overwidth deliveries of manufactured buildings; amending s. 316.650, F.S.; directing the Department of Highway Safety and Motor Vehicles to prepare affidavit of compliance forms with respect to certain traffic violations; amending s. 318.18, F.S.; providing a $25 fine for certain violations of s. 316.610, F.S.; providing for a reduced fine where the defect is corrected; amending s. 322.27, F.S.; providing for points with respect to certain traffic violations relating to operating certain motor vehicles in an unsafe condition or which are not properly equipped; providing for no points where defects are corrected; creating s. 316.6105, F.S.; providing a procedure for disposition of fines collected with respect to violations involving the operation of certain motor vehicles in unsafe condition or without required equipment; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 105 and read the second time by title. On motion by Senator Vogt, by two-thirds vote CS for CS for HB 175 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Kiser	Scott
Beard	Gersten	Langley	Stuart
Childers, D.	Girardeau	Malchon	Thomas
Childers, W. D.	Gordon	Mann	Thurman
Crawford	Grant	Margolis	Vogt
Crenshaw	Grizzle	McPherson	Weinstein
Deratany	Hill	Meek	
Dunn	Jennings	Myers	
Fox	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Neal

CS for CS for SB 105 was laid on the table.

CS for SB 895—A bill to be entitled An act relating to optometry; amending ss. 463.001, 463.002, 463.003, 463.005, 463.006, 463.007, 463.009, 463.012, 463.013, 463.015, 463.016, 463.018, 463.019, F.S.; reviving and readopting, notwithstanding scheduled repeals, chapter 463, F.S., relating to the regulation of optometry; providing legislative findings and purpose; providing definitions; providing conforming language; providing application and examination fees; providing continuing education requirements; prescribing conditions for the release of a contact lens prescription; proscribing certain acts and providing criminal penalties therefor; providing additional grounds for disciplinary action and administrative penalties; increasing administrative fines; providing for licensure by endorsement; providing for prospective application; creating s. 463.0055, F.S., providing for appropriate advice; repealing s. 463.014, F.S., relating to prohibited acts; providing for future repeal and legislative review; providing an effective date.

—was read the second time by title.

Senator Frank moved the following amendment which was adopted:

Amendment 1—On page 16, strike lines 4-8, and insert: 1986.

Further consideration of CS for SB 895 was deferred.

SB 442—A bill to be entitled An act relating to education; repealing ss. 231.533, 231.534, F.S., which establish the State Master Teacher Program and provide for subject area examinations; amending ss. 231.172, 231.532, 231.6125, 233.07, 233.09, 236.1227, F.S.; deleting references to the State Master Teacher Program; appropriating moneys appropriated to the program for the use of the Florida Education Finance Program; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Castor and adopted:

Amendment 1—On page 6, strike all of lines 1-5 and renumber subsequent section.

Senator Castor moved the following amendment which was adopted:

Amendment 2—On page 6, between lines 5 and 6, insert:

Section 9. Section 231.5335, Florida Statutes, is created to read:

231.5335 The Raymond B. Stewart Career Achievement Program for Teachers.—

(1) SHORT TITLE.—This section shall be known and may be cited as the Raymond B. Stewart Career Achievement Program Act of 1986.

(2) INTENT.—The Legislature recognizes that attracting and retaining superior teachers is essential in order to improve the overall quality of instruction in the public schools in Florida. The Legislature further recognizes that the goal of attracting and retaining superior teachers may best be achieved by providing career opportunities and economic and other incentives for public school teachers to achieve excellence. To this end, it is the intent of the Legislature that a comprehensive competency-based career achievement program be established for implementation in the state.

(3) DEFINITIONS.—The following terms are defined as follows:

(a) "Career achievement program" means a career progression and compensation system which provides for upward mobility within the teaching profession based upon superior performance and professional achievement and which is developed in accordance with the provisions of this section.

(b) "Classroom-based teacher" means an instructional staff member who provides direct instructional services to students pursuant to State Board of Education rule.

(c) "Composite evaluation" means the average of the percentile scores of the performance evaluation, the supervisor's evaluation, and the peer teacher's evaluation.

(d) "Current teacher" means a teacher employed on a full-time basis who has elected not to participate in the career achievement program.

(e) "Department" means the Department of Education.

(f) "Instructional leadership responsibilities" means professional school-related activities which contribute to the educational improvement of children or colleagues but which are not required by the school district. Such activities may include supervising student teachers, serving as a peer teacher to a beginning teacher, presenting at workshops, seminars, or conferences, or serving on a school-based or district-based committee.

(g) "Nonmonetary incentives" means supportive district programs to encourage superior teachers to continue in public school instruction, such as the following: staff recognition plans; fellows in education programs; media recognition of outstanding individuals and schools; certificates, plaques, public dinners, and community awards programs; appointment to prestigious committees; hall of fame programs; teacher of the month programs; and other similar ideas developed by the local district.

(h) "Peer teacher's evaluation" means a questionnaire developed at the school district level, for use by a teacher's colleagues, which is designed to assess the individual's level of superior performance in the classroom in relation to other teachers in that district and which is approved by the department for use in this program.

(i) "Performance evaluation" means assessment of an individual's instructional competence and teaching skills as measured by a performance evaluation tool as defined in this section.

(j) "Performance evaluation tool" means a reliable and valid instrument, normed at the district level and designed to assess teaching skills. Such tool may be developed by the school district and shall be approved by the State Board of Education for use in this program.

(k) "Program" means the Career Achievement Program for Teachers.

(l) "Subject area examination" means a statewide standardized assessment test developed pursuant to the provisions of s. 231.534 that is normed at the state level and measures an individual's knowledge of a given subject area. Such examination shall be approved by the State Board of Education for use in this program.

(m) "Supervisor's evaluation" means a questionnaire developed at the school district level, for use by the school principal, which is designed to assess the individual's level of superior performance in the classroom in relation to other teachers in that district and which is approved by the department for use in this program.

(4) PROGRAM ESTABLISHMENT.—There is hereby established the Career Achievement Program for Teachers. The purpose of this program is to provide a system of career advancement for public school teachers, based upon superior performance, to enhance professional growth, development, and competency of instructional personnel and to furnish an economic incentive to attract and retain outstanding individuals as public school teachers in the state. The Career Achievement Program for Teachers shall be staffed and administered by the Department of Education. The department has the duty to:

(a) Review and approve or disapprove each district career achievement program proposal and subsequent amendments submitted by a school district and assist school districts in complying with and implementing this section.

(b) Provide technical assistance to districts to develop career achievement programs consistent with the provisions of this section.

(c) Develop alternative model evaluation procedures which are valid and reliable and which measure a teacher's classroom performance and subject competency and assist districts in developing the required evaluation components.

(d) Conduct other duties as provided in this section.

(5) PROGRAM REQUIREMENTS AND PROCESS FOR SUBMISSION OF DISTRICT PROGRAM PROPOSALS.—

(a) Each school district is authorized to adopt and submit a proposal for a career achievement program for public school teachers for implementation beginning with the 1987-1988 school year. Such proposal shall be submitted to the department on a one-time basis; however, subsequent amendments to the proposal shall be submitted to the department for review and approval or disapproval as provided in this section. In order to be approved by the department, the program proposal and any subsequent amendment shall at least:

1. Provide for voluntary participation by eligible public school teachers.

2. Meet the program goals as specified in this section.

3. Include provision for current teachers to retain all rights to advance under the current salary schedule system.

4. Provide that each program applicant spend at least 50 percent of his employment time in direct work with students.

5. Provide that at least 90 percent of all designees for Levels II and III be classroom-based teachers.

6. Provide for the career achievement levels as specified in subsection (6).

7. Reflect fair and consistent procedures for conducting performance evaluations as specified in this section. Such procedures shall at least include provisions for notice to teachers and for selection of the evaluation team.

8. Be submitted to the department no later than March 31 of each year.

9. Include provisions to supplement monetary awards with nonmonetary incentives.

10. Provide for follow-up components to the evaluations to assist teachers to improve their classroom performance and professional development.

(b) The development and adoption of a district program proposal or subsequent amendments to such proposal by the school district are subject to the provisions of chapter 447, provided that implementation shall be contingent upon agreement and ratification of the proposal or amendment by both the employer and employees pursuant to s. 447.309 and subsequent approval by the department as specified in this section. The provisions of s. 447.403 are not applicable to district program proposals or subsequent amendments which are developed and adopted for the purpose of implementing this section.

(c) Subsequent to ratification, the district program proposal or amendment shall be submitted to the department for review and determination of compliance with the requirements specified in this section. The determination by the department shall be forwarded to the school district and shall consist of a certificate of compliance with the statutory requirements or a notice of noncompliance. Such determination and issuance of a certificate of compliance or a notice of noncompliance for a district program proposal or amendment shall be completed by the department no later than 30 days after receipt of the district program proposal or amendment by the department, except that for the first year of implementation, the department shall have 60 days for review, assistance, and notification. A notice of noncompliance shall specify the deficiencies of the district program proposal or amendment and shall include specific recommendations for correction of the deficiencies. Districts shall submit initial district program proposals to the department no later than March 31. For each year after a district's program proposal has received an initial notice of compliance, such proposal shall be considered in compliance, except that the department shall review amendments to the district program proposal and issue a certificate of compliance or notice of noncompliance therefor. To be eligible for funding, the district program proposal and any amendment shall meet all of the requirements set forth in this section. A district whose program proposal or amendments are not approved by the department shall be ineligible to receive funding for the program for the following school year.

(6) CAREER ACHIEVEMENT LEVELS AND REQUIREMENTS.— In order to be approved, a district program proposal shall provide for voluntary participation of eligible public school personnel in three career achievement levels: Level I, Level II, and Level III. The classification of current teacher may be retained or advancement may be made to other levels upon fulfillment of the requirements of this section. A current teacher shall be compensated according to the regular teacher salary schedule.

(a) Level I.—

1. To qualify for Level I, the applicant shall:

a. Have earned a bachelor's degree at an accredited institution of higher learning or possess valid Florida teaching credentials or be authorized to teach in Florida public schools pursuant to applicable law and State Board of Education rule.

b. Meet the local school district requirements for employment.

2. After the first year as a Level I teacher, the individual shall document successful completion of the beginning teacher program or the State Board of Education approved instructional personnel performance evaluation system for teachers with at least 1 year of prior teaching experience.

3. Upon submitting the appropriate application, the Level I teacher may advance to Level II after the fourth year as a Level I teacher, provided that requirements for Level II are met. However, a teacher may elect not to apply for advancement to Level II, and continue to teach as a Level I teacher.

4. The Level I teacher shall be compensated according to the regular teacher salary schedule commensurate with educational attainment and prior experience.

(b) Level II.—

1. To qualify for Level II, the applicant shall:

a. Have successfully completed at least 4 years as a Level I teacher or the equivalent as determined by State Board of Education rule.

b. Possess a professional service contract, a continuing contract, or a local tenure contract.

c. Document a minimum score at the 40th percentile on a subject area examination as defined in this section or equivalent measure of subject matter knowledge as developed by the district and approved by the State Board of Education. In the event that the State Board of Education determines there is no appropriate examination for a subject area, the State Board of Education shall establish an equivalent measure of subject matter knowledge. Only those applicants who achieve the acceptable minimum performance percentile score on a subject area examination or equivalent measure as specified in this section shall be eligible to undergo the performance evaluation, supervisor's evaluation, and peer teacher's evaluation.

d. Document a composite evaluation which shall be an average of at least the 50th percentile on applicable measures listed below:

(I) A performance evaluation which shall consist of a minimum of a 40th percentile score on a performance evaluation tool as defined in this section which has been approved by the teachers and administrators in the local school district. Such tool may be developed by the local school district.

(II) A supervisor's evaluation which shall consist of a minimum score at the 40th percentile.

(III) A peer teacher's evaluation which shall consist of a minimum score at the 40th percentile.

2. The Level II designation shall be for a 3-year term contingent upon successful performance of assigned responsibilities. This designation may be renewed for additional 3-year terms if the applicant successfully meets all required evaluations and other State Board of Education requirements for this designation during the third year of each 3-year term. After the second 3-year designation term, the Level II teacher may apply for advancement to Level III.

3. From the pool of applicants who scored at or above the 40th percentile on a subject area examination, no more than 45 percent shall be designated as Level II teachers in any district. Each district program proposal shall reflect the procedure which will be used to determine those applicants who will be designated as Level II teachers. An individual who is designated as a Level II teacher pursuant to the provisions of this section shall receive an annual incentive award to the extent such award is funded and specified in the General Appropriations Act.

4. School districts may require that Level II teachers undertake additional instructional leadership responsibilities.

(c) Level III.—

1. To qualify for Level III, the applicant shall:

a. Have successfully completed at least 6 years as a Level II teacher or the equivalent as determined by State Board of Education rule.

b. Possess a professional service contract, a continuing contract, or a local tenure contract.

c. Have earned at least a master's degree in the field in which the applicant teaches from an institution accredited by an agency holding membership in the Council on Postsecondary Accreditation. If the applicant possesses a degree in a subject which is out-of-field on the effective date of this section, he must successfully complete 15 semester hours or the equivalent at the graduate level in-field, as specified by rule of the State Board of Education, in order to be eligible for Level III.

d. Document a minimum score at the 70th percentile on a subject area examination as defined in this section or equivalent measure of subject matter knowledge as developed by the district and approved by the State Board of Education. In the event that the State Board of Education determines there is no appropriate examination for a subject area, the State Board of Education shall establish an equivalent measure of subject matter knowledge. Only those applicants who achieve the acceptable minimum performance percentile score on a subject area examination or equivalent measure as specified in this section shall be eligible to undergo the performance evaluation, supervisor's evaluation, and peer teacher's evaluation.

e. Document a composite evaluation which shall be an average of the 90th percentile on the applicable measures listed below:

(I) A performance evaluation which shall consist of a minimum of a 70th percentile score on a performance evaluation tool as defined in this section which has been approved by teachers and administrators in the local school district. Such tool may be developed by the local school district.

(II) A supervisor's evaluation which shall consist of a minimum score at the 70th percentile.

(III) A peer teacher's evaluation which shall consist of a minimum score at the 70th percentile.

2. The Level III teacher designation shall be for a 3-year term contingent upon successful performance of assigned responsibilities and appropriate professional services. This designation may be renewed for additional 3-year terms if the applicant successfully meets all required evaluations and other State Board of Education requirements for this designation during the third year of each 3-year term.

3. From the pool of applicants who scored at or above the 70th percentile on a subject area examination, no more than 25 percent shall be designated as Level III teachers in any district. Each district program proposal shall reflect the procedure which will be used to determine those applicants which will be designated as Level III teachers. An individual who is designated as a Level III teacher pursuant to the provisions of this section shall receive an annual incentive award to the extent such award is funded and specified in the General Appropriations Act.

4. School districts may require that Level III teachers undertake additional instructional leadership responsibilities.

(7) FUNDING.—

(a) There is created the Career Achievement Program Trust Fund for the purpose of financing approved proposals as provided in this section. The Commissioner of Education shall administer the trust fund.

(b) The moneys in the trust fund shall consist of moneys appropriated by the Legislature, moneys received from the Federal Government, and moneys received from any other public or private source. Interest earned on funds within the trust fund shall be invested and reinvested in accordance with s. 215.535.

(c) For each district program proposal that is approved by the department pursuant to the provisions of this section, the Commissioner of Education shall authorize distribution of funds to the district. In distributing funds as provided in this section, the commissioner shall take necessary steps to ensure appropriate distribution. The commissioner shall report a summary of all distributions to the State Board of Education and presiding officers of the Legislature.

(d) Up to 10 percent of the funds allocated to a district for teacher education centers may be used for administration of the program.

(8) RULEMAKING AUTHORITY.—The State Board of Education shall adopt rules as are necessary to implement the provisions of this section, including rules which:

(a) Authorize each district school board to provide a local appeals process which includes prompt and impartial review of each applicant.

(b) Provide for a uniform state appeals process and reevaluation process for each applicant who chooses to contest the local appeals process.

(c) Provide for uniform procedures for transferability of career level designations among the various school districts in the state.

Section 10. Section 231.5336, Florida Statutes, is created to read:

231.5336 Professional Teacher Career Development Council.—

(1) The Professional Teacher Career Development Council is created for the purpose of assisting the Department of Education in the implementation of the Professional Teacher Career Development Program and advising the department on related teacher issues. For administrative purposes, the council is assigned to the department and shall be housed within the Office of the Commissioner of Education.

(2) The council shall consist of 12 members appointed by the Governor. Six members shall be representatives from the education community including at least one representative from school boards, and one representative from school administrators, and six shall be representatives from the business community.

(3) Initial appointments shall be for staggered terms, with five members being appointed for 1 year, four members being appointed for 2 years, and three members being appointed for 3 years. Thereafter, all appointments shall be for 3 years. All vacancies shall be filled in the manner of the original appointment for only the time remaining in the unexpired term.

(4) Members of the council shall be entitled to receive per diem and expenses for travel pursuant to s. 112.061 while performing official business of the council.

(5) As soon as practicable following appointment of members, the council shall conduct an organizational meeting. The council shall elect a chairman from among its members who shall preside over meetings of the council and perform other duties as directed by the council or required by its duly adopted policies or law.

(6) The council shall have the duty and responsibility to:

(a) Review proposed rules and guidelines regarding the professional teacher career development program and make recommendations to the State Board of Education for approval.

(b) Assist and advise the Department of Education in reviewing submitted proposals.

(c) Advise the department regarding areas of technical assistance for the department to provide to the districts developing career achievement programs.

(d) Advise and assist the department in the development, implementation, and evaluation of the Career Achievement Program, including submission of recommendations for modifications, as deemed appropriate, to the program.

(e) Recommend to the Governor and Legislature, in a timely manner, appropriate levels of funding for this program.

(f) Submit to the State Board of Education and Legislature an annual report on the status of career achievement programs implemented in accordance with the provisions of s. 231.5335.

Section 11. (1) Effective September 1, 1987, all caps on the Raymond B. Stewart Career Achievement Program for Teachers as provided in sections 231.5335(5)(b)3. and 231.5335(5)(c)3. shall be repealed contingent upon an appropriation of at least $90,000,000.

(2) Effective July 1, 1988 the Raymond B. Stewart Career Achievement Program for Teachers shall be repealed if less than $90,000,000 is appropriated for this program.

(Renumber subsequent section.)

The Committee on Education recommended the following amendment which was moved by Senator Castor and adopted:

Amendment 3—In title, on page 1, on line 8, strike everything after the semicolon (;) through line 10.

Senator Castor moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 10, insert: A bill to be entitled An act relating to education; creating s. 231.5335, F.S., the Raymond B. Stewart Career Achievement Program Act of 1986; providing intent and definitions; providing Department of Education duties; providing for the adoption and submission of school district proposals, and subsequent amendments, for career achievement programs; providing proposal requirements; providing for determination of compliance; providing career achievement levels and requirements; creating a trust fund for financing approved proposals; providing for rules, transferability of career ladder level designations, and appeals processes;

On motion by Senator Jenne, the rules were waived and time of adjournment was extended until final action on SB 442.

On motion by Senator W. D. Childers, by two-thirds vote SB 442 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Mr President	Frank	Johnson	Peterson
Barron	Girardeau	Kiser	Plummer
Beard	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Margolis	Vogt
Crenshaw	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Gersten, Kirkpatrick, Neal, Thurman

On motions by Senator Jenne, by two-thirds vote CS for SB 656, SB 396, CS for SB 665, CS for CS for SB 670, SB 43, CS for SB 533, HB 1331, SB 966, SB 462, SB 348 and CS for HB 1104 were added to the end of the special order calendar for this day.

On motion by Senator Jenne, the Senate recessed at 12:02 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—38:

Mr. President	Frank	Kirkpatrick	Peterson
Barron	Girardeau	Kiser	Plummer
Beard	Gordon	Langley	Scott
Childers, D.	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Mann	Thomas
Crawford	Hair	Margolis	Thurman
Crenshaw	Hill	McPherson	Vogt
Deratany	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Neal	

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

CS for SB 183—A bill to be entitled An act relating to dental practitioners; amending s. 466.001, F.S.; providing purpose and legislative intent; amending s. 466.002, F.S.; providing exemption of a qualified anesthetist from certain regulations; amending s. 466.003, F.S.; defining "dentistry," "irremediable tasks," and "remediable tasks"; amending s. 466.004, F.S.; prescribing the qualifications of and providing for the appointment of board members; amending s. 466.006, F.S.; providing for dentists' licensure examinations; amending s. 466.007, F.S.; providing for the dental hygiene licensure examinations; amending s. 466.009, F.S.; providing for reexaminations; amending s. 466.0135, F.S.; specifying continuing education requirements for dentists and specifying associations which may offer continuing education programs; amending s. 466.014, F.S.; specifying continuing education requirements for dental hygienists, and providing for the procedure for submitting proof of required dental hygiene continuing education; amending s. 466.015, F.S.; providing for inactive status of licensees; amending s. 466.017, F.S.; providing for administration of anesthesia by dentists; amending s. 466.018, F.S.; providing for the maintenance of patient records; amending s. 466.019, F.S.; regulating advertising by dentists; amending s. 466.021, F.S.; regulating employment of unlicensed persons by dentists; amending s. 466.023, F.S.; prescribing the scope of practice of dental hygienists; amending s. 466.024, F.S.; limiting dentists' employment and supervision of dental hygienists and expanded functions auxiliaries; amending s. 466.026, F.S.; proscribing certain acts and providing penalties; amending s. 466.028, F.S.; prescribing grounds for disciplinary action; amending s. 466.0285, F.S.; prohibiting nondentists from owning a dental office or dental equipment; amending s. 466.031, F.S.; defining "dental laboratory"; amending s. 466.032, F.S.; providing for the registration of dental laboratories; amending s. 466.0395, F.S.; providing a savings clause; creating s. 466.084, F.S.; creating an impaired-professional's committee and establishing its duties; amending s. 627.912, F.S.; providing reporting requirements for insurers regarding professional liability claims and actions; reviving and readopting chapter 466, F.S., as amended; providing for future repeal and sunset review; repealing s. 466.006(4)(c), F.S., relating to manual skills examinations; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 2-42, strike everything after the enacting clause and insert:

Section 1. Section 466.001, Florida Statutes, is amended to read:

466.001 Purpose~~; legislative findings. The Legislature finds that the practice by unskilled dentists or dental hygienists of their professions presents a danger to the public health and safety. The Legislature finds further that it is difficult for the public to make an informed choice about dentists or dental hygienists and that the consequences of a wrong choice could seriously endanger the public health and safety.~~ The legislative purpose for enacting this chapter is to ensure that every dentist or dental hygienist practicing in this state meets minimum requirements for safe practice. It is the legislative intent that dentists and dental hygienists who fall below minimum competency or who otherwise present a danger

to the public shall be prohibited from practicing in this state. All provisions of this chapter relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out this purpose and intent.

Section 2. Section 466.002, Florida Statutes, is amended to read:

466.002 Persons exempt from operation of chapter.—Nothing in this chapter shall apply to the following practices, acts, and operations:

(1) The practice of his profession including surgical procedures involving the oral cavity by a physician or surgeon licensed as such under the laws of this state.

~~(2) The giving by a qualified anesthetist of an anesthetic for a dental operation under the direct supervision of a licensed dentist.~~

(2)~~(3)~~ The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Air Force, Marines, Navy, Public Health Service, Coast Guard, or Veterans' Administration.

(3)~~(4)~~ The practice of dentistry by licensed dentists of other states or countries at meetings of dental organizations approved by the board, while appearing as clinicians.

(4)~~(5)~~ Students in Florida schools of dentistry and dental hygiene or dental *assistant* ~~auxiliary~~ educational programs, while performing regularly assigned work under the curriculum of such schools.

(5)~~(6)~~ Instructors in Florida schools of dentistry or dental hygiene or dental *assistant* ~~auxiliary~~ educational programs, while performing regularly assigned duties under the curriculum of such schools. A full-time dental instructor at a dental school approved by the board may be allowed to practice dentistry at the teaching facilities of such school, upon receiving a teaching permit issued by the board, in strict compliance with such rules as are adopted by the board pertaining to the teaching permit and with the established rules and procedures of the dental school.

(6) Nothing in this chapter shall be construed to give the Board of Dentistry disciplinary authority over Certified Registered Nurse Anesthetists licensed and certified under Chapter 464.

Section 3. Subsections (3) and (6) of section 466.003, Florida Statutes, are amended to read:

466.003 Definitions.—As used in this chapter:

(3) "Dentistry" means the healing art which is concerned with the examination, diagnosis, treatment planning, and care of conditions within the human oral cavity and its adjacent tissues and structures. ~~and~~ *It* includes the performance or attempted performance of any dental operation, or oral or oral-maxillofacial surgery *and any procedures adjunct thereto*, including physical evaluation directly related to such operation or surgery pursuant to hospital rules and regulations. ~~, or~~ *It also includes* dental service of any kind gratuitously or for any remuneration paid, or to be paid, directly or indirectly, ~~to himself or~~ to any ~~other~~ person or agency. ~~; or~~ *The term "dentistry" shall also include the following:*

(a) The taking of an impression of the human tooth, teeth, or jaws directly or indirectly and by any means or method; ~~or~~

(b) Supplying artificial substitutes for the natural teeth or furnishing, supplying, constructing, reproducing, or repairing any prosthetic denture, bridge, appliance, or any other structure designed to be worn in the human mouth except on the written work order of a duly licensed dentist; ~~or~~

(c) The placing of *an* ~~such~~ appliance or structure in the human mouth or *the* adjusting or attempting to adjust the same; ~~or~~

(d) Delivering the same to any person other than the dentist upon whose work order the work was performed; ~~or~~

(e) Professing to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure designed to be worn in the human mouth; ~~or~~

(f) Diagnosing, prescribing, or treating or professing to diagnose, prescribe, or treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or oral-maxillofacial region; ~~or~~

(g) Extracting or attempting to extract human teeth; ~~or~~

(h) Correcting or attempting to correct malformations of teeth or of jaws; *and* ~~or~~

(i) Repairing or attempting to repair cavities in the human teeth.

(6) "Dental *assistant* ~~auxiliary~~" means a person, other than a dental hygienist, who, under the supervision and authorization of a dentist, provides dental care services directly to a patient. *This term shall not include a certified registered nurse anesthetist licensed under chapter 464.*

Section 4. Section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.—

(1) To carry out the provisions of this chapter, there is created within the Department of Professional Regulation a Board of Dentistry consisting of *eleven* ~~nine~~ members who shall be appointed by the Governor and subject to confirmation by the Senate. *Seven* ~~Six~~ members of the board shall be licensed dentists actively engaged in the practice of dentistry in this state ~~who are not connected in any way with any medical college, dental college, or community college~~; *two members* ~~one member~~ shall be ~~a~~ licensed dental *hygienists* ~~hygienist~~ actively engaged in the practice of dental hygiene in this state ~~who is not connected in any way with any medical college, dental college, or community college~~; and two members shall be lay persons who are not and have never been dentists, dental hygienists, or members of any closely related profession or occupation. Each dental member of the board shall have been actively engaged in his respective profession for at least 5 years preceding the date of his appointment to the board.

~~(a) Initially, the Governor shall appoint two members for a term of 4 years, three members for a term of 3 years, two members for a term of 2 years, and two members for a term of 1 year. Thereafter, members shall be appointed for 4-year terms.~~

~~(b) The members of the Florida State Board of Dentistry who are serving as of June 30, 1979, shall serve as members of the Board of Dentistry until members are appointed pursuant to paragraph (a).~~

(2) To advise the board, it is the intent of the Legislature that councils be appointed as specified in paragraphs (a), (b) and (c). The department shall provide administrative support to the councils and shall provide public notice of meetings and agenda of the councils. Councils shall include at least one board member who shall chair the council and shall include non-board members. All council members shall be appointed by the board chairman. Council members shall be appointed for 4-year terms and all members shall be eligible for reimbursement of expenses in the manner of board members.

(a) A Council on Dental Hygiene shall be appointed by the chairman of the board and shall include one dental hygienist member of the board, who shall chair the council, one dental member of the board, and three dental hygienists who are actively engaged in the practice of dental hygiene in this state. The council shall meet twice annually or more often at the request of the board chairman or with the approval of the board chairman or the secretary of the department. The council shall meet for the purpose of developing recommendations to the board on matters pertaining to that part of dentistry consisting of educational, preventive or therapeutic dental hygiene services; dental hygiene licensure, discipline or regulation; and dental hygiene education.

(b) A Council on Dental Assisting shall be appointed by the chairman of the board and shall include one dental member of the board who shall chair the council and three dental assistants who are actively engaged in dental assisting. The council shall meet twice annually or more often at the request of the board chairman or with the approval of the board chairman or the secretary of the department. The council shall meet for the purpose of developing recommendations to the board on matters pertaining to that part of dentistry related to dental assisting.

(c) With the concurrence of the secretary, the chairman of the board may create and abolish other advisory councils relating to dental subjects including but not limited to: examinations, access to dental care, indigent care, nursing home and institutional care, public health, disciplinary guidelines, and other subjects as appropriate. Such councils shall be appointed by the board chairman and shall include at least one board member who shall serve as chairman.

(3)~~(2)~~ The board shall maintain its headquarters in Tallahassee.

(4)~~(3)~~ The board is authorized to adopt all rules necessary to carry out the provisions of this chapter and chapter 455 *including the establishment of a fee to defray the cost of duplicating any license certification or permit, not to exceed $10 per duplication.*

(5)~~(4)~~ The board is authorized to publish and distribute such pamphlets, newsletters, and other publications as are reasonably necessary.

(6)~~(5)~~ All provisions of chapter 455 relating to the board shall apply.

Section 5. Subsections (3), (4) and (5) of Section 466.006, Florida Statutes, are amended to read:

466.006 Examination of dentists.—

(3) If an applicant is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) or of a dental college or school not approved by the board, he shall not be entitled to take the examinations required in this section to practice dentistry until he meets the following requirements:

(a) Furnishes evidence to the board of a score on the examination of the National Board of Dental Examiners taken within 10 years of the date of application, which score is at least equal to the minimum score required for certification by that board. If the applicant fails to attain the score needed for certification on part I of the national board examination in two attempts, or fails to attain the score needed for certification on part II of the national board examination in two attempts, he shall not be entitled to take the laboratory model examination authorized in paragraph (c), except that an applicant who graduated from the University of Havana before 1962 may take both parts of the examination an unlimited number of times.

(b) Submits, upon meeting the requirements of paragraph (a), the following credentials for review by the board:

1. Transcripts of predental education and dental education totaling 7 academic years of postsecondary education, including 4 academic years of dental education; and

2. A dental school diploma.

The board shall not review the credentials specified in this paragraph until the applicant has furnished to the board evidence of satisfactory completion of the National Board of Dental Examiners examination as required by paragraph (a). Such credentials shall be submitted in a manner provided by rule of the board. The board shall approve those credentials which comply with this paragraph and with rules of the board adopted pursuant hereto. The provisions of this paragraph notwithstanding, an applicant who cannot produce the credentials required by this paragraph as a result of political or other conditions in the country in which he received his education may seek approval by the board of his educational background prior to complying with the provisions of paragraph (a) by submitting such other reasonable and reliable evidence as may be set forth by rule of the board in lieu of the credentials required in this paragraph. The board shall not accept such alternative evidence until it has made a reasonable attempt to obtain the credentials required by this paragraph from the educational institutions the applicant is alleged to have attended, unless the board is otherwise satisfied that such credentials cannot be obtained. In addition, the provisions of subparagraph 1. do not apply to applicants who graduated from the University of Havana before 1962.

(c) *Satisfies one of the following:*

1. Completes a program of study, as defined by the board by rule, at an accredited American Dental School and demonstrates receipt of a D.D.S. or D.M.D., or the equivalent, from said school; or

2. Exhibits manual skills on a laboratory model pursuant to rules of the board. The board may charge a reasonable fee, not to exceed $250, to cover the costs of administering the exhibition of competency in manual skills. If the applicant fails to exhibit competent clinical skills in two attempts, he shall not be entitled to take the examinations authorized in subsection (4), except that an applicant who graduated from the University of Havana before 1962 may take the exhibition of competency in manual skills examination an unlimited number of times. *Effective October 1, 1991, no applicant may fulfill the requirements of this paragraph by taking the laboratory model exam. On or after said date, applicants must complete the educational requirements set forth in subparagraph 1.*

The provisions of paragraphs (a) and *subparagraph 1 of paragraph* (c) of this subsection notwithstanding, an applicant who is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) and who has failed to pass part I or part II of the national board examination in two attempts may take the laboratory model exam required in *subparagraph 1 of* paragraph (c) of this subsection if the board finds that he has taken remedial training in the subject areas in which he tested below standard on said national board examination and that he has subsequently passed that part of such exam which he had previously failed, provided that no applicant shall be entitled to this exception who fails either part of the national board examination a total of three times. Further, an applicant who has failed to pass the laboratory model exam required in *subparagraph 1 of* paragraph (c) of this subsection in two attempts may be allowed by the board to make a third and final attempt if the board finds that he has taken remedial training in clinical subjects in which he tested below standard. Upon passing said laboratory model exam, the applicant may take the licensure examinations required in subsection (4). Further, the educational requirements found in subparagraph (b)1. of this subsection do not apply to persons who began dental education prior to October 1, 1983, and such persons shall be governed by the educational requirements in existence on September 30, 1983.

(4) To be licensed as a dentist in this state, an applicant must successfully complete the following:

(a) A written examination on the laws and rules of the state regulating the practice of dentistry;

(b) A practical or clinical examination, which shall be administered and graded by dentists licensed in this state and employed by the department for just such purpose. The practical examination shall include:

1. Two ~~amalgam~~ restorations, and the board by rule shall determine the class of such restorations and whether they shall be performed on mannequins, live patients, or both. *At least one restoration shall be on a live patient*;

2. A demonstration of periodontal skills on a live patient;

3. *A demonstration of prosthetics and restorative skills in complete and partial dentures and crowns and bridges utilizing practical methods of evaluation, specifically including the evaluation by the candidate of completed laboratory products such as, but not limited to, crowns and inlays filled to prepared model teeth;* ~~A final impression and articulation for a complete dental prosthetic;~~

4. *A demonstration of restorative skills on a mannequin which requires the candidate to complete procedures performed in preparation for a cast restoration;* ~~A cast gold restoration of a class to be determined by board rule on a mannequin, with attendant cast gold laboratory;~~ and

5. A demonstration of endodontic skills ~~on a mannequin~~.

6. If the applicant fails to pass the clinical examination in three attempts, he shall not be eligible for reexamination unless he completes additional educational requirements established by the board; and

(c) A diagnostic skills examination demonstrating ability to diagnose conditions within the human oral cavity and its adjacent tissues and structures from photographs, slides, radiographs, or models pursuant to rules of the board, except that an applicant who graduated from the University of Havana before 1962 shall not be required to take the diagnostic skills examination described in this paragraph. If an applicant fails to pass the diagnostic skills examination in three attempts, he shall not be eligible for reexamination unless he completes additional educational requirements established by the board.

(d) The board may by rule provide for additional procedures which are to be tested; provided such procedures shall be common to the practice of general dentistry. The board by rule shall determine the passing grade for each procedure *and*~~,~~ the acceptable variation for examiners~~, and the point of statistical invalidity of a procedure~~. No such rule shall apply *retroactively* ~~retrospectively~~.

The department shall require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists who have substantially adhered to the standard of grading established at such exercise.

~~(5) On or after August 1, 1979, the practical or clinical examination required in subsection (4) shall test competency in areas to be established by rule of the board. It is the intent of the Legislature that the examinations relate to those procedures which are actually performed by the dentist in a general practice.~~

Section 5. Section 466.007, Florida Statutes, is amended to read:

466.007 Examination of dental hygienists.—

(1) Any person desiring to be licensed as a dental hygienist shall apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee set by the board not to exceed $100 and an examination fee set by the board which shall not be more than $150. The examination fee may be refunded if the applicant is found ineligible to take the examination.

(2) An applicant shall be entitled to take the examinations required in this section to practice dental hygiene in this state if he:

(a) Is 18 years of age or older.

(b) Is a graduate of a dental hygiene college or school approved by the board, *or accredited by the Commission on Accreditation of the American Dental Association, or its successor agency.*

(c) Has successfully completed the National Board of Dental Hygiene examination within 10 years of the date of application.

(3) To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

(a) A written examination on the laws and rules of this state regulating the practice of dental hygiene.

(b) A practical or clinical examination. ~~On or after August 1, 1979,~~ The practical or clinical examination shall test competency in areas to be established by rule of the board which shall include testing the ability to adequately perform a prophylaxis. *On or after the effective date of this act, every applicant who is otherwise qualified shall be eligible to take the examination a total of three times, notwithstanding the number of times the applicant has previously failed. If an applicant fails the examination three times, the applicant shall no longer be eligible to take the examination unless he obtains additional educational requirements established by the board.* The department shall require a mandatory standardization exercise *pursuant to s. 455.217(1)(b),* for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists and dental hygienists who have substantially adhered to the standard of grading established at such exercise. It is the intent of the Legislature that the examinations relate to those procedures which are actually performed by a dental hygienist in general practice.

Section 6. Subsections (1) and (2) of section 466.0135, Florida Statutes, are amended to read:

466.0135 Continuing education; dentists.—

(1) In addition to the other requirements for *renewal* ~~relicensure~~ set out in this chapter, each licensed dentist shall be required to complete biennially not less than 30 hours of continuing professional education in dental subjects. Programs of continuing education shall be programs of learning that contribute directly to the dental education of the dentist and may include, but shall not be limited to, attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions; and research, graduate study, teaching, or service as a clinician. Programs of continuing education shall be acceptable when adhering to the following general guidelines:

(a) The aim of continuing education for dentists is to improve all phases of dental health care delivery to the public.

(b) Continuing education courses shall *address* ~~encompass~~ one or more of the following *areas of* professional development ~~courses~~, including, but not limited to:

1. Basic medical and scientific subjects, including, but not limited to, biology, physiology, pathology, biochemistry, and pharmacology;

2. Clinical and technological subjects, including, but not limited to, *clinical techniques and procedures, materials, and equipment;* and

3. Subjects pertinent to oral health and safety.

(c) Continuing education credits shall be earned at the rate of one-half credit hour per 25-30 contact minutes of instruction and one credit hour per 50-60 contact minutes of instruction.

(2) Programs meeting the general requirements of subsection (1) may be developed and offered to dentists by any of the following agencies or organizations:

(a) The American Dental Association, the *National* ~~Florida~~ Dental Association, and *state,* district or local dental associations and societies affiliated with the American Dental Association *or the National Dental Association.*

(b) National, state, district, or local dental specialty organizations affiliated with the American Dental Association.

(c) Dental colleges or schools accredited as provided in this chapter.

(d) Other organizations, schools, or agencies approved by the board.

Section 7. Section 466.014, Florida Statutes, is amended to read:

466.014 Continuing education*; dental hygienists.*—In addition to the other requirements for relicensure for dental hygienists set out in this act, the board shall require each licensed dental hygienist to complete not less than 24 hours or more than 36 hours of continuing professional education in dental subjects, biennially, in programs prescribed or approved by the board or in equivalent programs of continuing education. Programs of continuing education approved by the board shall be programs of learning which, in the opinion of the board, contribute directly to the dental education of the dental hygienist. The board shall adopt rules and guidelines to administer and enforce the provisions of this section. *In applying for license renewal, the dental hygienist shall submit a sworn affidavit, on a form acceptable to the department, attesting that he has completed the continuing education required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The applicant shall retain in his records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this subsection. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause.* ~~Proof of completion of the required number of hours of continuing education shall be submitted to the board biennially by each dental hygienist, with his renewal certificate fee, on forms provided by the board.~~ Compliance with the continuing education requirements shall be mandatory for issuance of the renewal certificate. The board shall have the authority to excuse licensees, as a group or as individuals, from the continuing educational requirements, or any part thereof, in the event an unusual circumstance, emergency, or hardship has prevented compliance with this subsection.

Section 8. Section 466.015, Florida Statutes, is amended to read:

466.015 Inactive status.—

(1) A license which has become inactive may be reactivated pursuant to *this section* ~~s. 466.013~~ upon application to the department. The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed *15* ~~12~~ classroom hours for each year the license was inactive. Any such license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for *reactivation* ~~renewal~~ of such license. Once a license expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the *inactive* license, the department shall give notice to the licensee *at the licensee's last address of record.*

(2) The board shall promulgate rules relating to *application procedures for inactive status, the renewal of inactive licenses, and for the reactivation of licenses. The board shall prescribe by rule an application fee for inactive status, a biennial renewal fee for inactive status, and a fee for the reactivation of a license. Each of these fees shall be the same as the biennial renewal fee established by the board for an active license.* ~~licenses which have become inactive and for the renewal of inactive licenses. The board shall prescribe by rule a fee not to exceed $50 for the reactivation of an inactive license and a fee not to exceed $50 for the renewal of an inactive license.~~

(3) The department shall not reactivate a license unless the inactive licensee has paid an inactive application fee, any applicable biennial renewal fee, and a reactivation fee.

Section 9. Section 466.017, Florida Statutes, is amended to read:

466.017 Prescription of drugs; anesthesia.—

(1) A dentist shall have the right to prescribe drugs or medicine, subject to limitations imposed by law; perform surgical operations within the scope of his practice and training; administer general or local anesthesia or sedation, subject to limitations imposed by law; and use such appliances as may be necessary to the proper practice of dentistry.

(2) *Pharmacists licensed pursuant to chapter 465* ~~Druggists in this state~~ may fill prescriptions of legally licensed dentists in this state for any drugs necessary for the practice of dentistry.

(3) The board shall adopt rules which:

(a) Define general anesthesia.

(b) Specify which general or local anesthesia or sedation, if any, are limited or prohibited for use by dentists.

(c) Establish minimal training, education, experience, or certification for a dentist to use general anesthesia or sedation, which rules may exclude, in the board's discretion, those dentists using general anesthesia or sedation in a competent and effective manner as of the effective date of the rules.

(d) Establish further requirements relating to the use of general anesthesia or sedation, including, but not limited to, office equipment and the training of dental *assistants* ~~auxiliaries~~ or dental hygienists who work with dentists using general anesthesia or sedation.

(e) Establish an administrative mechanism enabling the board to verify compliance with training, education, experience, equipment, or certification requirements of dentists, dental hygienists, and dental *assistants* ~~auxiliaries~~ adopted pursuant to this subsection. The board may charge a fee to defray the cost of verifying compliance with requirements adopted pursuant to this paragraph.

(f) A licensed dentist who has been utilizing general anesthesia on a regular and routine basis in a competent and effective manner for a 10-year period preceding January 1, 1986, shall be deemed to have fulfilled the training requirements required by this subsection for general anesthesia.

(g) A licensed dentist who has been utilizing parenteral conscious sedation on an outpatient basis on a regular and routine basis in a competent and effective manner for the 3-year period preceding January 31, 1986, shall be deemed to have fulfilled the training requirements required by this subsection for parenteral conscious sedation.

(h) The board shall not adopt a rule prior to October 1, 1987, which prohibits or otherwise limits a dentist from supervising a nurse anesthetist licensed and certified under chapter 464, in the administration of parenteral conscious sedation nor shall the board adopt a rule prior to October 1, 1988, which prohibits or otherwise limits a dentist from supervising such nurse anesthetists in the administration of general anesthesia. A dentist may, pursuant to rule of the Board delegate to a licensed dental hygienist with supplemental education as prescribed by the Board and under direct supervision, the task of administering local topical anesthesia.

(4) A dentist who administers or employs the use of any form of anesthesia must possess a certification in advanced cardiac life support approved by the American Heart Association or the American Red Cross or the equivalent agency-sponsored cardiopulmonary resuscitation course with recertification every 2 years. Each dental office which uses any form of anesthesia must have immediately available and in good working order such resuscitative equipment, oxygen, and other resuscitative drugs as specified by rule of the board in order to manage possible adverse reactions.

(5)~~(4)~~ A licensed dentist may utilize an X-ray machine, expose dental X-ray films, and interpret or read such films. The provisions of part V of chapter 468 to the contrary notwithstanding, a licensed dentist may authorize or direct a dental *assistant* ~~auxiliary~~ to operate such equipment and expose such films under his direction and supervision, pursuant to rules adopted by the board in accordance with s. 466.024 which ensure that said *assistant* ~~auxiliary~~ is competent by reason of training and experience to operate said equipment in a safe and efficient manner. *The board may charge a fee not to exceed $20 to defray the cost of verifying compliance with requirements adopted pursuant to this section.*

Section 10. Section 466.018, Florida Statutes, is amended to read:

466.018 Dentist of record*; patient records*.—

(1) Each patient shall have a dentist of record. The dentist of record shall remain primarily responsible for all dental treatment on such patient regardless of whether the treatment is rendered by the dentist himself or by another dentist, dental hygienist, or dental auxiliary rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The dentist of record shall be identified in the record of the patient. If treatment is rendered by a dentist other than the dentist of record or by a dental hygienist or auxiliary, the name or initials of such person shall be placed in the record of the patient. In any disciplinary proceeding brought pursuant to this chapter or chapter 455, it shall be presumed as a matter of law that treatment was rendered by the dentist of record unless otherwise noted on the patient record pursuant to this section. *The dentist of record and any other treating dentist is subject to discipline pursuant to this chapter or chapter 455 for treatment rendered the patient and performed in violation of such chapter. One of the* ~~The~~ purposes of this section *is* ~~are~~ to *ensure that the* ~~assign primary~~ responsibility for each patient *is assigned* to one dentist in a multidentist practice of any nature and to assign primary responsibility to the dentist for treatment rendered by a dental hygienist or *assistant* ~~auxiliary~~ under his supervision. This section shall not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist not in practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

(2) If the dentist of record is not identified in the patient record as required by subsection (1), it shall be presumed as a matter of law that the dentist of record is the owner of the dental practice in which the patient was treated. Further, the dentist of record in a multidentist practice shall not change unless the subsequent treating dentist acknowledges in writing in the record that he is now the dentist of record for the patient. It shall be presumed as a matter of law that a new dentist of record has taken or reviewed the patient's medical history and dental records; that he has examined the patient; and that he has either developed a new treatment plan or has agreed to continue the preexisting treatment plan. However, the dentist of record shall be changed when the dentist of record leaves the practice where the treatment was being rendered and the patient elects to continue treatment in the office where treatment began.

(3) Every dentist shall maintain written dental records and medical history records which justify the course of treatment of the patient. The records shall include, but not be limited to, patient history, examination results, test results, and, if taken, X-rays.

(4) In a multidentist practice of any nature, the owner dentist shall maintain either the original or a duplicate of all patient records, including dental charts, patient histories, examination and test results, study models, and X-rays, of any patient treated by a dentist, at the owner dentist's practice facility. The purpose of this requirement is to impose a duty upon the owner of a multidentist practice to maintain patient records for all patients treated at the owner's practice facility whether or not the owner was involved in the patient's treatment. This subsection does not relieve the dentist of record in a multidentist practice of the responsibility to maintain patient records. An owner dentist of a multidentist practice may be relieved of the responsibility to maintain the original or duplicate patient records for patients treated at the owner dentist's practice facility, if, upon request of the patient or the patient's legal representative, he transfers custody of the records to another dentist, the patient, or the patient's legal representative and retains, in lieu of the records, a written statement, signed by the owner dentist, the person who received the records, and two witnesses, that lists the date, the records that were transferred, and the persons to whom the records were transferred. Further, the dentist of record may be relieved of the responsibility to maintain the original or duplicate patient records if he leaves the practice where the treatment was rendered, transfers custody of the records to the owner of the practice, and retains, in lieu of the records, a written statement, signed by the dentist of record, the owner of the practice, and two witnesses, that lists the date and the records that were transferred. The owner dentist shall provide reasonable access to duplicate records at cost.

(5) All patient records kept in accordance with this section shall be maintained for a period of 4 years from the date of the patient's last appointment.

Section 11. Section 466.019, Florida Statutes, is amended to read:

466.019 Advertising by dentists.—

(1) The purpose of this section is to *ensure that* ~~authorize the advertisement by dentists of information which is intended to provide~~ the public *has access to information which provides a* ~~with a~~ sufficient basis upon which to make an informed selection of dentists while *also ensuring that* ~~protecting~~ the public *is protected* from false or misleading advertisements which would detract from a fair and rational selection process. The board shall adopt rules to carry out the intent of this section, the purpose of which shall be to regulate the manner of such advertising in keeping with the provisions hereof.

~~(2) A dentist may advertise in accordance with the provisions of this chapter and with rules of the board adopted pursuant hereto. Advertising on radio and television shall be in accordance with rules adopted by the board which reflect the special characteristics of said media and which are in keeping with subsection (1). Each advertisement in any media shall contain the name, address, and telephone number of the dentist and of other dentists with whom the dentist is associated and may contain the names of the dental hygienists associated with said dentists. In addition, such advertising may contain the following information:~~

~~(a) Any specialty recognized by the board to which the dentist confines his practice if such dentist has the required academic specialty education or if he is a diplomate of one or more national specialty boards which are recognized by the Board of Dentistry.~~

~~(b) Office hours.~~

~~(c) Fees charged for routine dental services as delineated in subsection (3), in which case said advertisement shall also include a statement that the fee advertised is the minimum fee to be charged for such service and that the actual fee may vary depending upon the degree of complexity involved in a given case. Such statement shall be no less prominent than the general text of the advertisement.~~

~~(3) The advertisement of fees pursuant to paragraph (2)(c) shall be limited to the following routine dental services:~~

~~(a) Examinations.~~

~~(b) Diagnosis.~~

~~(c) Treatment planning.~~

~~(d) Prophylaxis.~~

~~(e) Radiographs.~~

~~(f) Simple extractions.~~

~~(g) Basic full upper or lower dentures, or both.~~

~~(h) Such other procedures which are determined by the board by rule to be routine dental services.~~

~~The board shall establish by rule a definition of what constitutes each of the services enumerated in this subsection, and said definitions shall be in keeping with the definition of "routine dental services" provided in subsection (4).~~

~~(4) For purposes of this section, a "routine dental service" is a procedure which:~~

~~(a) Is considered basic and common to the practice of the general dentist or to the respective dental specialty.~~

~~(b) May reasonably be expected to be performed on a regular or routine basis.~~

~~(c) Does not usually involve a significant degree of variation in terms of the procedure utilized and the level of difficulty encountered in carrying out such service.~~

~~(d) Is suitable for advertising in keeping with the purposes of this section as set forth in subsection (1) in terms of providing the public with a rational basis upon which to make an informed selection of dentists.~~

(2)~~(5)~~ No advertisement by a licensed dentist shall contain any false, fraudulent, misleading, *or* deceptive~~, or unfair~~ statement or claim or any statement or claim which:

(a) Contains misrepresentations of fact;

(b) Is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

(c) Contains laudatory statements about the dentist or group of dentists;

(d) Is intended or is likely to create false, unjustified expectations of favorable results;

(e) Relates to the quality of dental services provided *as compared to other available dental services*;

(f) Is intended or is likely to appeal primarily to a layperson's fears; ~~or~~

(g) Contains fee information without a disclaimer that such is a minimum fee only; or

(h)~~(g)~~ Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or to be deceived.

Section 12. Section 466.023, Florida Statutes, is amended to read:

466.023 Dental hygienists; scope and area of practice.—

(1) Dental hygienists may remove calculus deposits, accretions, and stains from exposed surfaces of the teeth and from the gingival sulcus; perform root planing and curettage; expose dental X-ray films; apply topical preventive or prophylactic agents; and perform all tasks delegable by the dentist in accordance with s. 466.024. The board by rule shall determine whether such functions shall be performed under the direct, indirect, or general supervision of the dentist.

(2) Dental hygienists may perform their duties:

(a) In the office of a licensed dentist;

(b) In public health programs and institutions of the Department of Health and Rehabilitative Services under the general supervision of a licensed dentist; or

(c) Upon a patient of record of a dentist who has issued a prescription for the services of a dental hygienist, which prescription shall be valid for 2 years unless a shorter length of time is designated by the dentist, in:

1. Licensed public and private health facilities;

2. Other public institutions of the state and federal government;

3. Public and private educational institutions;

4.~~3.~~ The home of a nonambulatory patient; and

5.~~4.~~ Other places in accordance with the rules of the board.

However, the dentist issuing such prescription shall remain responsible for the care of such patient. As used in this subsection, "patient of record" means a patient upon whom a dentist has taken a complete medical history, completed a clinical examination, recorded any *pathological conditions* ~~pathology or disease~~, and prepared a treatment plan.

(3) Dental hygienists may, without supervision, provide educational programs, faculty or staff training programs, authorized fluoride rinse programs, and other services *which do not involve diagnosis or treatment of dental conditions and which services are* ~~as~~ approved by rule of the board. ~~, in:~~

~~(a) Public, private, and parochial schools licensed by the Department of Education; and~~

~~(b) Private, nonprofit, charitable, community, and eleemosynary institutions and programs.~~

(4) The board by rule may limit the number of dental hygienists *or* ~~and~~ dental *assistants* ~~auxiliaries~~ *to be supervised by a dentist* ~~who work under the supervision of a dentist or who~~ *if they* perform expanded duties *requiring direct or indirect supervision* pursuant to the provisions of this chapter. *The purpose of the limitation shall be to protect the*

health and safety of patients and to ensure that procedures which require more than general supervision be adequately supervised. However, the Department of Health and Rehabilitative Services and public institutions approved by the board shall not be so limited as to the number of dental hygienists or dental auxiliaries working under the supervision of a licensed dentist.

(5) Dental hygienists are exempt from the provisions of part V of chapter 468.

Section 13. Section 466.022, Florida Statutes, is created to read:

466.022 Peer review; records; immunity.—

(1) The legislature finds that effective peer review of consumer complaints by professional associations of dentists is a valuable service to the public. In performing such service, any member of a peer review organization or committee shall, pursuant to s. 466.028(1)(f), report to the department the name of any licensee who he believes has violated this chapter. Any such peer review committee member shall be afforded the privileges and immunities of any other complainant or witness which are provided by s. 455.225(10). Furthermore, a professional organization or association of dentists which sponsors, sanctions, or otherwise operates or participates in peer review activities is hereby afforded the same privileges and immunities afforded to any member of a duly constituted medical review committee by s. 764.40(3).

(2) Information obtained from the official records of peer review organizations or committees shall not be subject to discovery or introduction into evidence in any disciplinary proceeding against a licensee. Further, no person who voluntarily serves on a peer review committee or who investigates a complaint for the committee shall be permitted or required to testify in any such disciplinary proceeding as to any evidence or other matters produced or presented during the proceedings of such organization or committee or as to any findings, recommendations, evaluations, opinions, or other actions of such organization or committee or any members thereof. However, nothing in this section shall be construed to mean that information, documents, or records otherwise available and obtained from original sources are immune from discovery or use in any such disciplinary proceeding merely because they were presented during proceedings of a peer review organization or committee. Members of peer review organizations shall assist the department in identification of such original sources where possible.

(3) Peer review information obtained by the department as background information shall remain confidential and shall not be subject to the provisions of s. 266.011 regardless of whether probable cause is found. The provisions of s. 768.40 shall continue to apply in full notwithstanding the fact that peer review information becomes available to the department pursuant to this chapter. For the purpose of this section, official records of peer review organizations or committees means correspondence between the dentist who is the subject of the complaint and the organization, correspondence between the complainant and the organization; diagnostic data, treatment plans and radiographs used by investigators or otherwise relied upon by the organization or committee; results of patient examinations; interviews; evaluation worksheets, recommendation worksheets; and peer review report forms.

Section 14. Section 466.024, Florida Statutes, is amended to read:

466.024 Delegation of duties; expanded functions.—

(1) A dentist may not delegate irremediable tasks to a dental hygienist or dental *assistant* ~~auxiliary~~, except as provided by law. A dentist may delegate remediable tasks to a dental hygienist or dental *assistant* ~~auxiliary~~ when such tasks pose no ~~present or future~~ risk to the patient. A dentist may only delegate remediable tasks so defined by law or rule of the board. The board by rule shall designate which tasks are remediable and delegable, except that the following are by law found to be remediable and delegable:

(a) Taking impressions for study casts but not for the purpose of fabricating any intra-oral restorations or orthodontic appliance.

(b) Placing periodontal dressings.

(c) Removing periodontal or surgical dressings.

(d) Removing sutures.

(e) Placing or removing rubber dams.

(f) Placing or removing matrices.

(g) Placing or removing temporary restorations.

(h) Applying cavity liners, varnishes, or bases.

(i) Polishing amalgam restorations.

(j) Polishing clinical crowns of the teeth for the purpose of removing stains but not changing the existing contour of the tooth.

(k) Obtaining bacteriological cytological specimens not involving cutting of the tissue.

Nothing in this subsection shall be construed to limit delegable tasks to those specified therein.

(2) Notwithstanding subsection (1), a dentist may delegate the tasks of gingival curettage and root planing to a dental hygienist but not to a dental *assistant* ~~auxiliary~~.

(3) All other remediable tasks shall be performed under the direct, indirect, or general supervision of a dentist, as determined by rule of the board, and after such formal or on-the-job training by the dental hygienist or dental *assistant* ~~auxiliary~~ as the board by rule may require. The board by rule may establish a certification process for expanded-duty dental *assistants* ~~auxiliaries~~, establishing such training or experience criteria or examinations as it deems necessary and specifying which tasks may be delegable only to such *assistants* ~~auxiliaries~~. If the board does establish such a certification process, the department shall implement the application process for such certification and administer any examinations required.

(4) Notwithstanding subsection (1), a dentist may not delegate to anyone other than another licensed dentist:

(a) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician.

(b) Any diagnosis for treatment or treatment planning.

(5) Notwithstanding any other provision of law, a dentist is primarily responsible for all procedures delegated by him.

(6) *No* ~~Effective July 1, 1980, no~~ dental *assistant* ~~auxiliary~~ shall perform an intra-oral procedure except after such formal or on-the-job training as the board by rule shall prescribe.

Section 15. Subsection (3) of section 466.025, Florida Statutes, is amended to read:

466.025 Dental interns; institutional dentists and nonprofit corporations; issuance and revocation of permits.—

(3) The department shall have the authority, upon presentation of satisfactory credentials and under such rules as the board may prescribe, to issue a permit to a nonprofit corporation chartered for one or more of the following purposes:

(a) Training and teaching dental *assistants* ~~auxiliaries~~ in the public schools of the state.

(b) Promoting research and training among duly licensed dentists in the state.

(c) Providing dental care for indigent persons.

Such nonprofit corporations shall function pursuant to rule of the board. The board shall have the power to revoke the permit issued to any such corporations for any violation of the rules. Such permits shall be granted and issued for a period of 1 year and shall be renewed only upon application and approval of the board and upon a showing by the nonprofit corporation that it is complying and will comply with the rules and regulations and all provisions prescribed by the board.

Section 16. Section 466.026, Florida Statutes, is amended to read:

466.026 Prohibitions; penalties.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing dentistry or dental hygiene unless the person has an appropriate, active license issued by the department pursuant to this chapter.

(b) Using or attempting to use a license issued pursuant to this chapter which license has been suspended or revoked.

(c) Knowingly employing any person to perform duties outside the scope allowed such person under this chapter or the rules of the board.

(d) Giving false or forged evidence to the department or board for the purpose of obtaining a license.

(e) Selling or offering to sell a diploma conferring a degree from a dental college or dental hygiene school or college, or a license issued pursuant to this chapter, or procuring such diploma or license with intent that it shall be used as evidence of that which the document stands for, by a person other than the one upon whom it was conferred or to whom it was granted.

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Using the name or title "dentist," the letters "D.D.S." or "D.M.D.," or any other words, letters, title, or descriptive matter which in any way represents a person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or oral-maxillofacial region, unless the person has an active dentist's license issued by the department pursuant to this chapter.

(b) Using the name "dental hygienist" or the initials "R.D.H.," or otherwise holding himself out as an actively licensed dental hygienist or implying to any patient or consumer that he is an actively licensed dental hygienist unless that person has an active dental hygienist's license issued by the department pursuant to this chapter.

(c) Presenting as his own the license of another.

~~(d) Giving false or forged evidence to the department or board for the purpose of obtaining a license.~~

~~(e) Selling or offering to sell a diploma conferring a degree from a dental college or dental hygiene school or college, or a license issued pursuant to this chapter, or procuring such diploma or license with intent that it shall be used as evidence of that which the document stands for, by a person other than the one upon whom it was conferred or to whom it was granted.~~

(d)~~(f)~~ Knowingly concealing information relative to violations of this chapter.

(e)~~(g)~~ Performing any services as a dental *assistant* ~~auxiliary~~, as defined herein, except in the office of a licensed dentist, unless authorized *by this chapter or* by rule of the board.

Section 17. Section 466.028, Florida Statutes, is amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of dentistry or dental hygiene. Any plea of nolo contendere shall be considered a finding of guilt for purposes of this chapter.

(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content ~~or which is~~ contrary to s. 466.019 or rules of the board adopted pursuant thereto.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows, or has reason to believe, is *clearly* in violation of this chapter or *of the rules of the department* or the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene contrary to this chapter or to a rule of the department or the board.

(h) Being employed by any corporation, organization, group, or person other than a dentist or professional association composed of dentists; however, a dentist may be employed by a corporation or group for purposes of providing services to the employees and members of such corporation or group and to members of their immediate families, *and a corporation may employ a hygienist if it has employed a dentist to provide supervision pursuant to this chapter.*

(i) Failing to perform any statutory or legal obligation placed upon a licensee.

(j) Making or filing a report which the licensee knows to be false, ~~intentionally or negligently~~ failing to file a report or record required by state or federal law, *knowingly* ~~willfully~~ impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

(k) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

(l) Making deceptive, untrue, or fraudulent representations in the practice of dentistry.

(m) Failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, ~~and~~ test results, *and X-rays if taken.*

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form also states "This prescription may be filled at any pharmacy of your choice."; or paying or receiving any commission, bonus, kickback, or rebate; or engaging in any split-fee arrangement in any form whatsoever with a dentist, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, dentists, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a dentist from receiving a fee for professional consultation services.

(o) Failing to make available to a patient or client, or to his legal representative *or to the department if authorized in writing by the patient*, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(p) Performing professional services which have not been duly authorized by the patient or client, or his legal representative, except as provided in ss. 768.13 and 768.46.

(q) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the professional practice of the dentist. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the dentist, without regard to his intent.

(r) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to himself, except those prescribed, dispensed, or administered to the dentist by another practitioner authorized to prescribe them.

(s) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug or a compound designated as a Schedule II controlled substance, pursuant to chapter 893, to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(t) Being unable to practice his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,

chemicals, or any other type of material or as a result of any mental or physical condition. *In enforcing this paragraph, the department shall have, upon a finding of the secretary or his designee that probable cause exists to believe that the licensee is unable to practice dentistry or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011.* ~~In enforcing this paragraph, the department shall have, upon a finding of probable cause, authority to compel a licensee to submit to a mental or physical examination by a qualified person or persons designated by the department. The failure of a licensee to submit to such examination when so directed constitutes an admission of the allegations against him, upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his control.~~ A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of his profession with reasonable skill and safety to patients.

(u) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene.

(v) Failure to provide and maintain reasonable sanitary facilities and conditions.

(w) Failure to provide adequate radiation safeguards.

(x) Performing any procedure or prescribing any therapy which, by the prevailing standards of dental practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(y) Being guilty of incompetence *or negligence* by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience *or being guilty of dental malpractice. As used in this paragraph, "dental malpractice" includes, but is not limited to, three or more claims within the previous 5-year period which resulted in indemnity being paid, or any single indemnity paid in excess of $5,000 in a judgment or settlement, as a result of negligent conduct on the part of the dentist.*

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform.

(aa) Delegating professional responsibilities to a person *who* ~~when the licensee delegating such responsibilities knows, or has reason to know, that such person~~ is not qualified by training, experience, or licensure to perform them.

(bb) The violation or the repeated violation of this chapter, chapter 455, or any rule promulgated pursuant to chapter 455 or this chapter; or the violation of a lawful order of the board or department previously entered in a disciplinary hearing; or failure to comply with a lawfully issued subpoena of the board or department.

(cc) Conspiring with another licensee or with any person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his services.

(dd) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.

(ee) Presigning blank prescription ~~forms~~ *or laboratory work order forms.*

(ff) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(gg) Operating or causing to be operated, a dental office in such a manner as to result in dental treatment that is below minimum acceptable standards of performance for the community. This includes, but is not limited to, the use of substandard materials or equipment, the imposition of time limitations within which dental procedures are to be performed, or the failure to maintain patient records as required by this chapter.

(hh) Administering anesthesia in a manner which violates rules of the board adopted pursuant to s. 466.017.

(ii) Supervising any person in the administration of anesthesia unless qualified himself by the board to administer or to supervise the mode of anesthesia which he is supervising.

(2) When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed *$3,000* ~~$1,000~~ for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate his competency through a written or practical examination or to work under the supervision of another licensee.

(f) Restricting the authorized scope of practice.

(3) There shall be a minimum 6-month suspension of the license of a dentist who is convicted of a violation of paragraph (1)(aa).

(4) The department shall reissue the license of a disciplined licensee upon certification by the board that the disciplined licensee has complied with all of the terms and conditions set forth in the final order.

(5) In addition, if the department finds that an applicant has a complaint filed against him in another jurisdiction, the board may deny the application pending final disposition of the complaint.

(6) Upon the department's receipt from the Department of Insurance of the name of a dentist with any indemnity paid in excess of $5,000 in a judgment or settlement or any dentist having three or more claims for dental malpractice within the previous 5-year period which resulted in indemnity being paid, the department shall investigate the occurrence upon which the claims were based and determine if action by the department against the dentist is warranted.

Section 18. Subsection (1) of section 466.0285, Florida Statutes, is amended to read:

466.0285 Proprietorship by nondentists.—

(1) No person other than a dentist licensed pursuant to this chapter may:

(a) Employ a dentist or dental hygienist in the operation of a dental office;

(b) Control the use of any dental equipment or material while such equipment or material is being used for the provision of dental services whether those services are provided by a dentist, a dental hygienist, or a dental assistant.

Any lease agreement, rental agreement, or other arrangement between a non-dentist and a dentist whereby the non-dentist provides the dentist with dental equipment or dental materials shall contain a provision whereby the dentist expressly maintains complete care, custody and control of the equipment or practice.

~~(b) Place in the possession of a dentist, dental hygienist, or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment, or office; or~~

~~(c) Retain the ownership or control of dental equipment or material or a dental office and make the same available in any manner for the use of a dentist, dental hygienist, or other agent.~~

~~However, nothing in this subsection shall apply to a bona fide sale of dental equipment, material, or office secured by a chattel mortgage or retain title agreement, or to an agreement for the rental of the equipment or office by a bona fide lease at a reasonable amount, and under which agreement a licensee under this chapter maintains complete care, custody, and control of the equipment and his practice. Further, nothing in this section shall apply to the otherwise lawful functions of accredited educational institutions or public agencies, nor shall prevent the disposition of the estate of a deceased licensee by his heirs or their agent.~~

Section 19. Section 466.031, Florida Statutes, is amended to read:

466.031 "Dental laboratory" defined.—The term "dental laboratory" as used in this chapter ~~shall be deemed to~~:

(1) Includes ~~Include~~ any person, firm, or corporation who:

~~(1)~~ performs for a fee of any kind, gratuitously or otherwise, directly or through an agent or employee, by any means or method, or who in any way supplies or manufactures artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth or who in any way holds itself out as a dental laboratory. ;

(2) *Excludes* ~~Shall be those individual~~ dental laboratory technicians~~, excluded from the provisions of s. 466.032,~~ who construct or repair dental prosthetic appliances in the office of a licensed dentist for such dentist only and under his supervision and work order.

Section 20. Section 466.032, Florida Statutes, is amended to read:

466.032 Registration.—

(1) Every person, firm, or corporation operating a dental laboratory in this state shall~~, by January 1 of each year,~~ register *biennially* with the department on forms to be provided by the department and, at the same time, pay to the department a registration fee of *$20* ~~$10~~ for which the department shall issue a registration certificate entitling the holder to operate a dental laboratory for a period of *2 years* ~~1 year~~.

(2) Upon the failure of any dental laboratory operator to comply with subsection (1), the department shall notify him by registered mail, *within 1 month after the registration renewal date* ~~February 1~~, return receipt requested, at his last known address, of such failure and inform him of the provisions of subsections (3) and (4).

(3) Any dental laboratory operator who has not complied with subsection (1) *within 3 months after the registration renewal date* ~~by March 1 of any year~~ shall be required to pay a delinquency fee of $25 in addition to the regular ~~annual~~ registration fee.

(4) The department is authorized to commence and maintain proceedings to enjoin the operator of any dental laboratory who has not complied with *this section* ~~subsection (1) by March 1 of any year~~ from operating a dental laboratory in this state until he has obtained a registration certificate and paid the required fees.

Section 21. *Section 466.0395, Florida Statutes, is hereby repealed.*

Section 22. *Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, chapter 466, Florida Statutes, shall not stand repealed on October 1, 1986, and shall continue in full force and effect as amended herein.*

Section 23. *Chapter 466, Florida Statutes, is repealed on October 1, 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

Section 24. This act shall take effect October 1, 1986.

Amendment 8—On page 1, in the title, lines 1-31, and on page 2, lines 1-26, strike all of said lines and insert: An act relating to dentistry; amending s. 466.001, F.S., deleting obsolete language; amending s. 466.002, F.S., deleting exemption and renaming auxiliary as assistant; amending s. 466.003, F.S., making technical changes, renaming auxiliary; amending s. 466.004, F.S., adding new board members, providing for several councils; amending s. 466.006, F.S., changing clinical exam requirements; amending s. 466.007, F.S., making technical changes; amending s. 466.0135, F.S., making technical changes, specifying continuing education providers; amending s. 466.014, F.S., providing for proof of continuing education; amending s. 466.015, F.S., altering inactive status provisions and fees; amending s. 466.017, F.S., making technical changes; providing for a fee; amending s. 466.018, F.S., adding provision relating to dentist of record, providing for multidentist practices and records; amending s. 466.019, F.S., substantially altering advertising requirements; creating s. 466.022, F.S., providing for peer review; amending s. 466.023, F.S., clarifying dental hygiene and dental assistant supervisory requirements; amending s. 466.024, F.S., changing auxiliary to assistant; amending s. 466.025, F.S., changing auxiliary to assistant; amending s. 466.026, F.S., increasing prohibitions for which there are criminal penalties, making technical changes; amending s. 466.028, F.S., altering disciplinary provisions, providing for forced examination, defining dental malpractice, adding new disciplinary provisions relating to substandard office practice, and the administration of anesthesia, providing for increased fines, requiring the department to investigate malpractice; authorizing dental hygienists to administer local topical anesthesia; amending s. 466.0285, F.S., altering provisions relating to ownership of dental equipment and material; amending s. 466.031, F.S., making technical changes; amending s. 466.032, F.S., providing for biennial registration; repealing s. 466.0395, relating to obsolete savings clause; saving chapter 466, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

On motions by Senator Frank, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 2 to HB 558; further amended, and passed as further amended and requests the concurrence of the Senate.

Allen Morris, Clerk

HB 558—A bill to be entitled An act relating to acupuncture; reviving and readopting, notwithstanding the Regulatory Sunset Act, chapter 457, F.S.; amending ss. 457.101, 457.102, 457.103, 457.104, 457.105, 457.107, 457.109, 457.116, and 457.118, F.S.; creating ss. 457.108, 457.1085 and 457.114, F.S.; providing intent; providing definitions; providing terms for members of the Board of Acupuncture; specifying certification qualifications and fees; providing for biennial renewal of certificates; providing a fee; providing for board approval of continuing education programs; providing a fee; providing for inactive status; providing for reactivation of inactive certificates; providing for fees; providing for infection control; providing grounds for disciplinary actions by the board; providing for itemized patient billing; providing prohibited acts and a penalty therefor; providing for effect of chapter on other health care practices; repealing s. 457.119, F.S., relating to a saving clause; providing for legislative review and repeal; providing effective dates.

Amendment 1—On page 1 in the title, lines 1-25, strike all of said lines and insert: A bill to be entitled An act relating to acupuncture; reviving and readopting, notwithstanding the Regulatory Sunset Act, chapter 457, F.S.; amending ss. 457.101, 457.102, 457.103, 457.104, 457.105, 457.107, 457.109, 457.116, and 457.118, F.S.; creating ss. 457.108 and 457.1085, F.S.; providing intent; providing definitions; providing terms for members of the Board of Acupuncture; specifying certification qualifications and fees; providing for biennial renewal of certificates; providing a fee; providing for board approval of continuing education programs; providing a fee; providing for inactive status; providing for reactivation of inactive certificates; providing for fees; providing for infection control; providing grounds for disciplinary actions by the board; providing prohibited acts and a penalty therefor; providing for effect of chapter on other health care practices; repealing s. 457.111, F.S., relating to informed consent; repealing s. 457.119, F.S., relating to a saving clause; providing for legislative review and repeal; providing effective dates.

On motion by Senator Frank, the Senate concurred in the House amendment.

HB 558 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	Johnson	Neal
Barron	Girardeau	Kirkpatrick	Peterson
Beard	Gordon	Kiser	Plummer
Childers, D.	Grant	Langley	Scott
Childers, W. D.	Grizzle	Malchon	Stuart
Crawford	Hair	Mann	Thomas
Crenshaw	Hill	McPherson	Thurman
Dunn	Jenne	Meek	Vogt
Fox	Jennings	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Deratany, Gersten

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives returns CS for CS for SB's 1180 and 1230 as requested.

Allen Morris, Clerk

CS for CS for SB's 1180 and 1230—A bill to be entitled An act relating to education; providing definitions; prohibiting the order or purchase, for use in public schools, of art or craft materials containing toxic substances; authorizing exemptions; providing for rules; specifying duties of the Department of Health and Rehabilitative Services and the Department of Education; providing an effective date.

On motion by Senator Frank, the Senate reconsidered the vote by which CS for CS for SB's 1180 and 1230 passed June 4.

Senators Kirkpatrick and Thurman offered the following amendments which were moved by Senator Kirkpatrick and adopted by two-thirds vote:

Amendment 1—On page 3, between lines 7 and 8, insert:

Section 2. Section 402.3197, Florida Statutes, is hereby repealed.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 9, after "Education;" insert: repealing s. 402.3197, F.S., relating to bond or alternative surety for child care facilities, secular nonpublic schools, and day camps;

CS for CS for SB's 1180 and 1230 as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Kirkpatrick	Peterson
Barron	Girardeau	Kiser	Plummer
Beard	Gordon	Langley	Scott
Childers, D.	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Mann	Thomas
Crawford	Hair	Margolis	Thurman
Crenshaw	Hill	McPherson	Vogt
Deratany	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Gersten

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendment—

SB 1310—A bill to be entitled An act relating to the North Broward Hospital District; amending ss. 4, 6, 33(4), 39, ch. 27438, Laws of Florida, 1951, as amended; authorizing the district to establish, operate, or support profit or not-for-profit subsidiaries and not-for-profit affiliates in furtherance of the district's purpose of providing for the health care needs of the people of the district; authorizing the district to support certain not-for-profit organizations; declaring that the support of such subsidiaries, affiliates, or nonaffiliated, not-for-profit organizations by means of nominal interest loans of funds, nominal rent leases of real or personal property, gifts and grants of funds, and guaranties of indebtedness is a public purpose and necessary for the preservation of the public health and welfare of the district and inhabitants thereof; authorizing the district to the extent permitted by the State Constitution, to participate as a shareholder in a corporation, or as a joint venturer in a joint venture, which provides health care or engages in activities related thereto and to provide debt or equity financing for the activities of such corporations or joint ventures; declaring that such participation in and funding of such health care corporations or joint ventures is a public purpose; requiring the district to comply with certain provisions of s. 155.40, F.S., in implementing certain powers; providing for the conveyance of property or easements of the district to such a subsidiary, affiliate, or not-for-profit organization for a nominal consideration and without publication of notice or public hearing; repealing laws in conflict with the act; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 7, line 1, strike *"except"*

On motion by Senator Scott, the Senate concurred in the House amendment.

SB 1310 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Girardeau	Langley	Plummer
Beard	Gordon	Malchon	Scott
Childers, D.	Grant	Mann	Stuart
Crawford	Grizzle	Margolis	Thomas
Crenshaw	Hair	McPherson	Thurman
Deratany	Hill	Meek	Vogt
Dunn	Jennings	Myers	Weinstein
Fox	Johnson	Neal	
Frank	Kiser	Peterson	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Gersten, Jenne, Kirkpatrick

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 2, 3, 4, 5, 6, 7 and 8; has amended Senate Amendment 1, concurred in same as amended and passed HB 1198, as further amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

HB 1198—A bill to be entitled An act relating to land reclamation; creating part III of chapter 378, F.S., the Phosphate Land Reclamation Act; providing intent and definitions; specifying applicability; providing powers and duties of the Department of Natural Resources with respect to phosphate mine reclamation; providing for memoranda of agreement with other agencies; providing for adoption of statewide reclamation criteria and standards; requiring certain financial responsibility; providing for submittal of operators' financial statements; providing for confidentiality and for review and repeal thereof; establishing a schedule for completion of reclamation; providing for injunctive relief and damages; providing for civil penalties; providing for recovery against financial security; requiring notice of violation; providing for variances; creating part IV of chapter 378, F.S., the Resource Extraction Reclamation Act; providing intent and definitions; providing powers and duties of the department with respect to reclamation of lands disturbed by extraction of other resources; providing review procedures; providing for public access to information and confidentiality of certain records; providing for review and repeal; providing for inspections; providing for injunctive relief; specifying civil liability of noncomplying operators; authorizing certification of local governments or the Department of Transportation to carry out certain duties under the act; specifying relationship to other laws; requiring notice of intent to mine by extractors of limestone, heavy minerals, fuller's earth clay, and other specified resources; requiring conceptual reclamation plans with respect to mining of heavy minerals and fuller's earth clay; providing reclamation performance standards; specify-

ing application to existing mines; providing an exemption; amending s. 211.32, F.S., relating to criteria for mandatory reclamation programs for taxpayers subject to tax on severance of solid minerals; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 6, lines 26-31, strike all of said lines and insert: ~~$25 million in fiscal year 1984-1985, $35 million in fiscal year 1985-1986, or~~ $40 million in any fiscal year ~~thereafter,~~ the department shall deposit the excess into the General Revenue Fund.

House Amendment 2 to Senate Amendment 1—On page 7, line 12, strike "subsection" and insert: *paragraph*

On motions by Senator Stuart, the Senate concurred in the House amendments to the Senate amendments.

HB 1198 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kiser	Plummer
Barron	Gordon	Langley	Scott
Childers, D.	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Mann	Thomas
Crawford	Hair	Margolis	Thurman
Crenshaw	Hill	McPherson	Vogt
Deratany	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Neal	
Frank	Kirkpatrick	Peterson	

Nays—None

Vote after roll call:

Yea—Gersten

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1355 and requests the concurrence of the Senate.

Allen Morris, Clerk

HB 1355—A bill to be entitled An act relating to chiropractic; amending s. 460.401, F.S., clarifying purpose; amending s. 460.403, F.S., clarifying definitions; providing for certain certification; making technical changes; amending s. 460.404, F.S., making technical changes; amending s. 460.405, F.S., making technical changes; amending s. 460.406, F.S., providing for application and examination fees; providing for bachelor's degree; providing for certification examinations; creating s. 460.4065, F.S., providing for licensure by endorsement; amending s. 460.407, F.S., making technical changes; amending s. 460.408, F.S., increasing continuing education requirements, expanding eligibility for providing continuing education programs; amending s. 460.409, F.S., providing new inactive status requirements; amending s. 460.4095, F.S., making technical changes; amending s. 460.41, F.S., making technical changes; amending s. 460.4104, F.S., making technical changes; amending s. 460.413, F.S., clarifying unearned fees; adding disciplinary provisions regarding certain certification; amending s. 460.4165, F.S., making technical changes; amending s. 455.203, F.S., to correct a cross reference; repealing s. 460.415, F.S., relating to saving clauses; saving chapter 460, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

On motion by Senator Frank, by unanimous consent HB 1355 was taken up out of order. On motions by Senator Frank, by two-thirds vote HB 1355 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Crenshaw	Gordon	Johnson
Barron	Deratany	Grant	Kirkpatrick
Beard	Dunn	Grizzle	Kiser
Childers, D.	Fox	Hair	Malchon
Childers, W. D.	Frank	Hill	Mann
Crawford	Girardeau	Jennings	Margolis
McPherson	Neal	Scott	Thurman
Meek	Peterson	Stuart	Vogt
Myers	Plummer	Thomas	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne

On motion by Senator Frank, by two-thirds vote HB 1352 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Frank, by unanimous consent—

HB 1352—A bill to be entitled An act relating to nursing; amending s. 464.002, F.S., clarifying purpose; amending s. 464.003, F.S., clarifying definitions; amending s. 464.004, F.S., providing for diverse membership on the Board of Nursing; amending s. 464.006, F.S., clarifying authority to make rules; amending s. 464.008, F.S., permitting examination for licensure upon completion of program requirements; amending s. 464.009, F.S., modifying requirements for licensure by endorsement; amending s. 464.012, F.S., clarifying provisions relating to certification of advanced registered nurse practitioners; amending s. 464.013, F.S., clarifying provisions relating to license or certificate renewal; amending s. 464.014, F.S., revising procedures for inactive status; revising requirements for license reactivation; providing for fees; providing for license expiration; amending s. 464.015, F.S., relating to titles and abbreviations with respect to professional nurses; amending s. 464.016, F.S., increasing the penalty for obtaining a license or certificate through misrepresentation; amending s. 464.018, F.S., revising procedures with respect to compelling a licensee to submit to a physical or mental examination; amending s. 464.0185, F.S., providing for impaired program; amending s. 464.022, F.S., expanding and clarifying exceptions to the act; repealing s. 464.007, F.S., relating to expenditures and disposition of fees; repealing s. 464.023, F.S., relating to saving clauses; saving chapter 464, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was taken up out of order and by two-thirds vote read the second time by title. On motions by Senator Frank, by two-thirds vote HB 1352 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Kirkpatrick	Peterson
Barron	Girardeau	Kiser	Plummer
Beard	Gordon	Langley	Scott
Childers, D.	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Mann	Thomas
Crawford	Hair	Margolis	Thurman
Crenshaw	Hill	McPherson	Vogt
Deratany	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Gersten

SPECIAL ORDER

On motion by Senator Malchon, by two-thirds vote CS for HB 701 was withdrawn from the Committees on Commerce; Health and Rehabilitative Services; and Appropriations.

On motion by Senator Malchon—

CS for HB 701—A bill to be entitled An act relating to continuing care contracts; amending s. 651.021, F.S., relating to certificates of authority; providing an exemption; amending s. 651.023, F.S., providing an exemption under certain circumstances; amending s. 651.033, F.S., providing additional requirements with respect to escrow accounts; providing penalties; providing additional notification requirements on escrow agents and providers with respect to escrow funds; providing exceptions; amending s. 651.035, F.S., deleting requirements for escrow agents with respect to minimum liquid reserve requirements; amending s. 651.055, F.S., providing for the application of the provisions relating to

agreements and the right to rescind; amending s. 651.095, F.S., providing for the application of the provisions governing advertising; amending s. 651.106, F.S., providing additional grounds for discretionary refusal, suspension, or revocation of certificate of authority; amending s. 651.114, F.S., revising provisions with respect to delinquency proceedings for all escrowed funds; creating s. 651.116, F.S., providing additional provisions with respect to delinquency proceedings; creating s. 651.117, F.S., providing for duties of the Department of Health and Rehabilitative Services; creating s. 651.118, F.S., providing for certificates of need of the Department of Health and Rehabilitative Services with respect to sheltered beds and community beds; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for CS for SB 990 and read the second time by title. On motion by Senator Malchon, by two-thirds vote CS for HB 701 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Kirkpatrick	Plummer
Barron	Frank	Kiser	Scott
Beard	Girardeau	Langley	Stuart
Childers, D.	Gordon	Malchon	Thomas
Childers, W. D.	Grant	Mann	Thurman
Crawford	Hair	Margolis	Vogt
Crenshaw	Hill	McPherson	Weinstein
Deratany	Jennings	Meek	
Dunn	Johnson	Myers	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal

CS for SB 990 was laid on the table.

CS for SB 511—A bill to be entitled An act relating to fines, civil penalties; amending ss. 316.660, 318.14, 318.15, 318.18, 318.20, 318.21, 401.113, 943.25, F.S.; providing disposition of fines and forfeitures collected for violations; providing a schedule for distribution of civil penalties and costs; removing certain additional fines and surcharges on fines for traffic infractions; increasing amount of civil penalties for noncriminal traffic infractions; extending time for payment of civil penalties; increasing court costs for persons who elect alternatives to fines for infractions; providing penalties for failure to comply with civil penalty or appear for noncriminal traffic infractions; providing for deposit of moneys in the Emergency Medical Services Trust Fund and the Criminal Justice Training Trust Fund; repealing s. 318.19(3), F.S., as amended, relating to mandatory hearings; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 1—On pages 1-19, strike everything after the enacting clause and insert:

Section 1. Subsection (1) of section 27.3455, Florida Statutes, is amended to read:

27.3455 Additional court costs; collection, use, and distribution of funds.—

(1) When any person pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as a cost in the case, in addition to any other cost required to be imposed by law, a sum in accordance with the following schedule:

(a) Felonies $200

(b) Misdemeanors $50

(c) Criminal traffic offenses $50

The clerk of the court shall collect such additional costs and shall notify the agency supervising a person upon whom costs have been imposed upon full payment of fees. The clerk shall forward all but $3 for each misdemeanor or criminal traffic case and all but $5 for each felony case to the Treasurer. The Treasurer shall deposit such funds in the Local Government Criminal Justice Trust Fund to be administered by the Governor, following consultation with the chairpersons of the appropriations committees of the Senate and the House of Representatives. Such funds shall be used exclusively for those purposes set forth in subsection (2). The clerk shall retain $3 for each misdemeanor or criminal traffic case and $5 for each felony case of each scheduled amount collected as a service charge of the clerk's office. A political subdivision shall not be held liable for the payment of the additional cost imposed by this section. ~~All applicable fees and court costs shall be paid in full prior to the granting of any gain-time accrued. However, the court shall sentence those persons whom it determines to be indigent to a term of community service in lieu of the costs prescribed in this section, and such indigent persons shall be eligible to accrue gain-time and shall serve the term of community service at the termination of incarceration. Each hour of community service shall be credited against the additional cost imposed by the court at a rate equivalent to the minimum wage. The governing body of a county shall supervise the community service program. The court shall retain jurisdiction for the purpose of determining, upon motion, whether a person is indigent for the purpose of this section. In the event that the emergency release provisions of s. 944.598 are initiated, any inmate who would have otherwise been eligible for release under s. 944.598 shall not be denied release solely as a result of this section.~~

Section 2. Subsections (1), (4) and (5) of section 34.191, Florida Statutes, is amended to read:

34.191 Fines, forfeitures, and costs.—

(1) All fines and forfeitures arising from offenses tried in the county court shall be collected and accounted for by the clerk of the court and deposited in a special trust account. All fines and forfeitures received from violations of ordinances or misdemeanors committed within a county, or of municipal ordinances committed within a municipality within the territorial jurisdiction of the county court, shall be paid monthly to the county or municipality respectively except as provided in *s. 318.21 or* s. 943.25.

~~(4) The additional fines provided for under ss. 318.18(3) and 318.19(3) shall be collected and distributed by the clerk of the court. The clerk shall remit on a weekly schedule $22 or $47, whichever is applicable, of the additional fine to the Treasurer's office for deposit into the General Revenue Fund. For each offense occurring within a municipality, the clerk shall remit $3 to the municipality; for all other offenses, he shall retain the $3 to defray the expense to the office for collection and distribution of the funds.~~

~~(5) The additional penalties collected pursuant to s. 318.18(8) shall be paid monthly, in accordance with s. 318.21, to the local governmental entity administering a school crossing guard program.~~

Section 3. Subsection (5) is added to section 316.008, Florida Statutes, to read:

316.008 Powers of local authorities.—

(5)(a) A county or municipality may enact an ordinance providing a fine for the violation of s. 316.1945(1)(b)2. or 5. in excess of the fine specified by s. 318.18(2), except that such fine may not exceed the fine specified in s. 318.18(2) by more than $3. However, such ordinance shall provide that the fines collected pursuant to this subsection in excess of the fines which would be collected pursuant to s. 318.18(2) for such violations shall be used by the county or municipality for the purpose of funding a firefighter education program. The amount of the fines collected pursuant to this subsection in excess of the fines which would be collected pursuant to s. 318.18(2) for such violations shall be reported on a monthly basis by the clerk of the court to the appropriate county or municipality.

(b) A county or municipality may enact an ordinance which dedicates a portion of any fine collected for a violation of such ordinance for the purpose of funding a firefighter education program, if such ordinance is limited to the regulation of parking within a firesafety zone.

Section 4. Section 316.660, Florida Statutes, is amended to read:

316.660 Disposition of fines and forfeitures collected for violations.—

(1) Except as otherwise provided ~~herein~~, all fines and forfeitures received by any county court from violations of any of the provisions of this chapter, or from violations of any ordinances adopting matter cov-

ered by this chapter, committed within a municipality shall be paid monthly to that municipality. It is the intent of the Legislature that such fines and forfeitures be paid monthly to that municipality in addition to any other fines and forfeitures received by a county court that are required to be paid to that municipality as otherwise provided by law. If any chartered county court having countywide jurisdiction was trying traffic offenses committed within a municipality on February 1, 1972, then in that county two-thirds of the fines and forfeitures from violations of this chapter, or from violations of any ordinances adopting matter covered by this chapter, committed within a municipality shall be paid and distributed to the municipality, and the remainder shall be paid to the county. All fines and forfeitures received by any county court as the result of citations issued pursuant to s. 316.640(2)(b)1. shall be paid to the county whether or not such citations are issued for parking violations occurring within a municipality.

~~(2) The additional fines for certain speeding violations provided for under ss. 318.18(3) and 318.19(3) shall be collected and distributed by the clerk of the court. The clerk of the court shall remit, on a weekly schedule, $22 or $47, whichever is applicable, of the additional fine to the Treasurer's office for deposit into the General Revenue Fund. Further, the clerk shall remit the remaining $3 to the municipality in which the offense occurred; when the offense occurs outside the limits of a municipality, he shall retain the $3 to defray the expense to the office for collections and distributions.~~

(2)~~(3)~~ The additional costs and surcharges on criminal traffic offenses provided for under ss. 960.20 and 960.25 of the Florida Crimes Compensation Act shall be collected and distributed by the clerk of the court as provided in such sections. The additional costs and surcharges shall also be collected for the violation of any ordinances adopting the criminal traffic offenses enumerated in s. 318.17.

~~(4) The additional penalties collected pursuant to s. 318.18(8) shall be paid monthly, in accordance with s. 318.21, to the local governmental entity administering a school crossing guard program.~~

Section 5. Subsections (1)-(9) of section 318.14, Florida Statutes, are amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(1) Except as provided in s. 318.17, any person cited for a violation of chapter 316, s. 322.19, or s. 240.265 shall be deemed to be charged with a noncriminal infraction and shall be cited for such an infraction and cited to appear before an official.

(2) Any person cited for an infraction under this section *shall* ~~may:~~

~~(a) Post a bond, which shall be equal in amount to the applicable civil penalty established in s. 318.18; or~~

~~(b)~~ sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty established in s. 318.18.

(3) Any person who willfully refuses to ~~post a bond or~~ accept and sign a summons is guilty of a misdemeanor of the second degree.

(4) Any person charged with a noncriminal infraction under this section *who does not elect to appear shall* ~~may:~~

~~(a)~~ pay the civil penalty, either by mail or in person, within *30* ~~10~~ days of the date of receiving the citation~~; or,~~

~~(b) If he has posted bond, forfeit bond by not appearing at the designated time and location~~. If the person cited follows ~~either of~~ the above *procedure* ~~procedures~~, he shall be deemed to have admitted the infraction and to have waived his right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings.

(5) Any person electing to appear before the designated official or who is required so to appear shall be deemed to have waived his right to the civil penalty provisions of s. 318.18. The official, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the official may impose a civil penalty not to exceed $500 or require attendance at a driver improvement school, or both.

(6) The commission of a charged infraction at a hearing under this chapter must be proved beyond a reasonable doubt.

(7) The official having jurisdiction over the infraction shall certify to the department within 10 days after payment of the civil penalty ~~or forfeiture of bond~~ that the defendant has admitted to the infraction. If the charge results in a hearing, the official having jurisdiction shall certify to the department the final disposition within 10 days of the hearing.

(8) When a report of a determination or admission of an infraction is received by the department, it shall proceed to enter the proper number of points on the licensee's driving record in accordance with s. 322.27.

(9)(a) Any person cited for an infraction under this section may, in lieu of payment of a civil penalty or court appearance, elect to attend a driver improvement course approved by the state. In such case, adjudication shall be withheld, and points, as provided by s. 322.27, shall not be assessed; however, no election shall be made under this subsection if such person has made an election under this subsection in the 12 months preceding election hereunder. No person may make more than three elections under this subsection.

(b) Any person making an election under this subsection shall be assessed court costs of *$35* ~~$20~~ notwithstanding waiver of civil penalty. *Costs collected under this paragraph shall be distributed as provided in s. 318.21.* ~~Twelve dollars of such costs shall be distributed to the municipality and $8 shall be retained by the county, if the infraction was committed within the municipality. If the infraction was committed within an unincorporated area of a county, the entire amount shall be retained by the county.~~

Section 6. Section 318.15, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 318.15, F.S., for present text.)

318.15 Failure to comply with civil penalty or appear; penalty.—

(1) If a person fails to comply with the civil penalties provided in s. 318.18 within the time period specified in s. 318.14(4), fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court shall notify the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles of such failure within 5 days after such failure. Upon receipt of such notice, the department shall immediately issue an order suspending the driver's license and privilege to drive of such person as of the date of such failure and shall send such person notice of such suspension.

(2) After suspension of the driver's license and privilege to drive of a person under subsection (1), the license and privilege may not be reinstated until the person complies with all obligations and penalties imposed on him under s. 318.18, and presents to a driver license office a certificate of compliance issued by the court, together with the $25 nonrefundable service fee imposed under s. 322.29, or pays the aforementioned $25 service fee to the clerk of the court clearing such suspension. Such person shall also be in compliance with requirements of chapter 322 prior to reinstatement.

Section 7. Section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14(1), (2), and (4) are as follows:

(1) *Fifteen* ~~Ten~~ dollars for all infractions of pedestrian regulations under s. 316.130 and violations of chapter 316 by bicyclists 14 years of age and under.

(2) *Thirty* ~~Twenty-five~~ dollars for all nonmoving traffic violations and for all violations of ss. 316.613 and 322.19.

(3) *Fifty dollars for all moving violations not requiring a mandatory appearance. With respect to violations involving an unlawful speed, there shall be added to such $50 an amount equal to $2 for every mile per hour over the lawful speed limit.* ~~Except as provided in subsection (4), $35 for all moving violations not requiring a mandatory appearance. In addition to this $35 fine, when the lawful speed limit is 55 miles per hour, a fine of $30 is imposed on any person convicted of exceeding such speed limit by more than 10 miles per hour and less than 25 miles per hour, and a fine of $55 is imposed on any person convicted of exceeding such speed limit by 25 or more miles per hour. Whenever the court~~

~~imposes the penalty of attending a driver improvement school under the provisions of s. 318.15 or s. 322.291 and the fine is waived, or when an adjudication is withheld pursuant to the provisions of s. 318.14(9), the added fine of $30 or $55 shall not be waived but shall be paid to the Traffic Violations Bureau and distributed as provided in ss. 34.191 and 316.660.~~

~~(4) Fifty-five dollars for a violation of s. 316.1575(2).~~

(4)~~(5)~~ The penalty imposed under s. 316.545 shall be determined by the officer in accordance with the provisions of ss. 316.535 and 316.545.

(5) Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified in this section within the 30-day period provided for in s. 318.14 shall be required to pay an additional civil penalty of $10, which additional civil penalty shall be distributed as provided in s. 318.21.

~~(6) In addition to any civil penalties and surcharges imposed for speeding pursuant to this section, an additional penalty of $2 shall be assessed for each mile an hour in excess of 25 miles an hour over the lawful speed limit.~~

~~(7) Five dollars of each fine collected pursuant to subsections (1)-(4) shall be deposited in the Emergency Medical Services Trust Fund for use in accordance with the provisions of s. 401.113.~~

~~(8) In addition to any civil penalties imposed by this section, the clerk of the court is authorized, upon approval of the board of county commissioners of the county, to assess an additional penalty of up to $4 per violation for the purpose of funding a county or municipal school crossing guard program.~~

Section 8. Section 318.20, Florida Statutes, is amended to read:

318.20 Notification; duties of department.—The department shall prepare a notification form to be appended to, or incorporated as a part of, the Florida uniform traffic citation issued in accordance with s. 316.650. The notification form shall contain language informing persons charged with infractions to which this chapter applies of the procedures available to them under this chapter. ~~Such notification shall contain a schedule of points to be assessed against a person's driving record in accordance with s. 322.27 and a schedule of civil penalties applicable to infractions under this chapter in accordance with s. 318.18.~~

Section 9. Section 318.21, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 318.21, F.S., for present text.)

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(1) If the violation occurred within a municipality:

(a) Twenty-five percent shall be paid to the General Revenue Fund of the state; and

(b) Seventy-five percent shall be paid to the municipality.

(2) If the violation occurred within the unincorporated area of a county:

(a) Twenty-five percent shall be paid to the General Revenue Fund of the state; and

(b) Seventy-five percent shall be paid to the county.

(3)(a) Moneys paid to the General Revenue Fund of the state under subsections (1) and (2) shall be distributed as follows:

1. Forty percent shall be deposited in the Emergency Medical Services Trust Fund for the purposes set forth in s. 401.113;

2. Twenty-five percent shall be deposited in the Additional Court Cost Clearing Trust Fund established pursuant to s. 943.25 for criminal justice purposes; and

3. The remainder may be used for any lawful purpose.

(b) Moneys paid to a municipality under subsection (1) shall be used to fund local criminal justice training as provided in s. 943.25(7), when such a program is established by ordinance; to fund a municipal school crossing guard program, when such a program is established by ordinance; and for any other lawful purpose.

(c) Moneys paid to a county under subsection (2) shall be used to fund local criminal justice training as provided in s. 943.25(7)when such a program is established by ordinance; to fund a county school crossing guard program, when such a program is established by ordinance; and for any other lawful purpose.

Section 10. Subsection (1) of section 401.113, Florida Statutes, is amended to read:

401.113 Department; powers and duties.—

(1) Funds deposited into the Emergency Medical Services Trust Fund as provided by ss. 316.061, 316.192, 316.193, and *318.21* ~~318.18~~ shall be used solely to improve and expand prehospital emergency medical services in the state.

Section 11. Section 943.25, Florida Statutes, is amended to read:

943.25 Advanced training program; regional training school enhancements; funding.—

(1) The commission shall, by rule, establish, implement, supervise, and evaluate the expenditures of ~~the Law Enforcement Training Trust Fund and Correctional Officer Training Trust Fund or, after June 30, 1986,~~ the Criminal Justice Training Trust Fund for approved advanced training program courses. Criminal justice training school enhancements may be authorized by the commission subject to the provisions of subsection *(8)*~~(9)~~. The commission may approve the training of appropriate support personnel when it can be demonstrated that these personnel directly support the criminal justice function.

(2)(a) The commission shall authorize the establishment of regional training councils to advise and assist the commission in developing and maintaining a plan assessing regional criminal justice training needs and to act as an extension of the commission in the planning, programming, and budgeting for expenditures of the moneys ~~in the Law Enforcement Training Trust Fund and the Correctional Officer Training Trust Fund or, after June 30, 1986,~~ in the Criminal Justice Training Trust Fund. *The commission shall annually forward to each regional training council a list of its specific recommended priority issues or items to be funded. Each regional training council shall consider the recommendations of the commission in relation to the needs of the region and either include the recommendations in the region's budget plan or justify their exclusions.*

(b) Unless otherwise provided by this section and subject to an appropriation by the Legislature, the commission plan shall include the following provisions for expenditure:

1. First, to each region, beginning on July 1, 1986, and ending on June 30, 1988, a sum of $75,000 from the Criminal Justice Training Trust Fund.

2. Second, to a region or regions, ~~from either or both funds,~~ a sum not to exceed 10 percent of the remaining balance *in the Criminal Justice Training Trust Fund* to fund the provisions of subsection *(11)*~~(12)~~.

3. Third, to each region the balance remaining in *the* ~~each~~ fund based on a distribution formula approved by the commission. This distribution to each region shall be in addition to the distribution under the provision of subparagraph 1., and both sums shall be used by each region to implement the regional plan approved by the commission.

By rule, the commission may establish criteria and procedures for use by the division and regions to amend the approved plan when an emergency exists. The division shall, with the consent of the chairman of the commission, initially grant, modify, or deny the requested amendment pending final approval by the commission. The commission's plan and amendments thereto shall comply with the provisions of chapter 216.

~~(c) Effective July 1, 1986, the funding provisions of paragraph (b) shall be funded from the Criminal Justice Training Trust Fund.~~

(c)~~(d)~~ Commission members, regional training council members, division staff personnel, and other authorized persons who are performing duties directly related to the trust fund may be reimbursed for reasonable per diem and travel expenses as provided in s. 112.061.

(3) No training, room, or board cost may be assessed against any officer or employing agency for any advanced training course funded ~~from the Law Enforcement Training Trust Fund or the Correctional Officer Training Trust Fund or, after June 30, 1986,~~ from the Criminal Justice

Training Trust Fund. Such expenses shall be paid from the trust *fund* ~~funds~~ and are not reimbursable by the officer. Travel costs to and from the training site are the responsibility of the trainee or employing agency. Any compensation, including, but not limited to, salaries and benefits, paid to any person during the period of training shall be fixed and determined by the employing agency; and such compensation shall be paid directly to the person. The commission shall develop a policy of reciprocal payment for training officers from regions other than the region providing the training. An officer who is not employed or appointed by an employing agency of this state is authorized to attend a course funded by *the trust fund* ~~these trust funds~~, provided he is required to pay to the criminal justice training school all training costs incurred for his attendance.

(4) All courts created by Art. V of the State Constitution shall, in addition to any fine or other penalty, assess *3.00* ~~$2.50~~ as a court cost against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance. *However, the aforesaid assessment shall not be imposed in addition to civil penalties provided in s. 318.18.* Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost.

(a) ~~Effective July 1, 1986, each $2.50 assessment shall increase to $3.~~ In addition, *$3 00* ~~$2.50~~ from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be forwarded to the Treasurer as hereinafter described. ~~Effective July 1, 1986, each $2.50 from every bond estreature shall increase to $3.~~ However, no such assessment shall be made against any person convicted for violation of any state statute, municipal ordinance, or county ordinance relating to the parking of vehicles. All such costs collected by the courts shall be remitted to the Department of Revenue, in accordance with administrative rules promulgated by the Executive Director of the Department of Revenue, for deposit in the *Additional Court Cost Clearing Trust Fund* ~~State Treasury~~ and shall be earmarked to the Department of Law Enforcement *and the Department of Community Affairs* for distribution as follows: ~~until June 30, 1986, $1.50 of each such $2.50 assessment shall be divided equally between the Law Enforcement Training Trust Fund and the Correctional Officer Training Trust Fund. Effective July 1, 1985, 75 cents of each such assessment shall be deposited in the Administrative Trust Fund and shall be disbursed to the Division of Criminal Justice Standards and Training, Department of Law Enforcement. The remaining 25 cents of each such assessment shall be deposited in the Trust Fund for Grant Matching and shall be disbursed to the Bureau of Public Safety Management of the Department of Community Affairs. Effective July 1, 1986, the Law Enforcement Training Trust Fund and the Correctional Officer Training Trust Fund shall be merged into the Criminal Justice Training Trust Fund; and all funds which have accumulated to the Law Enforcement Training Trust Fund and the Correctional Officer Training Trust Fund shall be transferred to the Criminal Justice Training Trust Fund. Beginning on that date, $2~~ *Two dollars* of each $3 assessment shall be *deposited* ~~earmarked to the Department of Law Enforcement for deposit~~ in the Criminal Justice Training Trust Fund. Seventy-five cents of each assessment shall be deposited into the Administrative Trust Fund; and the remaining 25 cents of each such assessment shall be deposited into the Trust Fund for Grant Matching and shall be disbursed to the Bureau of Public Safety Management of the Department of Community Affairs.

(b) Effective October 1, 1986, 67 percent of the money distributed to the Criminal Justice Training Trust Fund pursuant to 318.21 shall be earmarked to the Department of Law Enforcement for deposit in the Criminal Justice Training Trust Fund; 25 percent of such money shall be deposited into the Administrative Trust Fund; and 8 percent of such moneys shall be deposited into the Trust Fund for Grant Matching and shall be disbursed to the Bureau of Public Safety Management of the Department of Community Affairs.

(c) The funds deposited in the Criminal Justice Training Trust Fund, the Administrative Trust Fund, and the Trust Fund for Grant Matching may be invested. Any interest earned therefrom and any unencumbered funds remaining at the end of the budget cycle shall be deposited, for redistribution, in the Additional Court Cost Clearing Trust Fund.

All funds ~~in the Law Enforcement Training Trust Fund and Correctional Officer Training Trust Fund or, beginning July 1, 1986,~~ in the Criminal Justice Training Trust Fund earmarked to the Department of Law Enforcement shall be disbursed only in compliance with subsection *(9)* ~~(10)~~.

~~(5) Notwithstanding the provisions of this section, municipalities and counties may use assessments provided for in subsection (4) for basic training of correctional officers; however, this authorization for use of assessments for basic training expires June 30, 1986.~~

(5)~~(6)~~ The Auditor General is directed in his financial audit of courts to ascertain that such assessments have been collected and remitted and shall report to the Legislature annually. All such records of the courts shall be open for his inspection. The Auditor General is further directed to conduct financial audits of the expenditures of the trust funds and shall report to the Legislature annually.

(6)~~(7)~~ All funds deposited ~~in the Law Enforcement Training Trust Fund and the Correctional Officer Training Trust Fund or, beginning July 1, 1986,~~ in the Criminal Justice Training Trust Fund shall be made available to the department for implementation of training programs approved by the commission and the head of the department.

(7)~~(8)~~(a) Municipalities and counties may assess an additional $2, as aforesaid, for expenditures for criminal justice education degree programs and training courses, including basic recruit training, for their respective officers and support personnel, provided such education degree programs and training courses are approved by the commission. ~~Those programs and courses that meet the provisions of s. 943.17 shall have standing approval by the commission for expenditures and attendance. However, those programs and courses shall be reviewed biennially by the commission, which shall either affirm or revoke the standing approval.~~ Workshops, meetings, conferences, and conventions shall ~~not have standing approval and~~, on a form approved by the commission for use by the employing agency, ~~shall~~ be individually approved by the commission prior to attendance. The form shall include, but not be limited to, a demonstration by the employing agency of the purpose of the workshop, meeting, conference, or convention; the direct relationship of the subject matter to advanced training; the direct benefits the officer and agency will receive; and all anticipated costs. When commission approval to attend a workshop, meeting, conference, or convention cannot be obtained prior to a scheduled commission meeting, the division may, with the consent of the chairman of the commission, initially approve the workshop, meeting, conference, or convention, subject to final approval by the commission. If the commission does not grant final approval, the employing agency shall not use the funds provided by this subsection for payment of such costs. For those courses and programs having standing approval, the commission shall update, publish, and distribute semiannually to all employing agencies and criminal justice training schools a list of approved programs and courses, including the name and location of the criminal justice training school offering each program or course.

(b) The *commission* ~~Auditor General~~ shall *have the authority to inspect and copy the documentation of independent audits conducted of* ~~audit~~ the municipalities and counties which make such assessments to ensure that such assessments have been made and that expenditures are in conformance with the requirements of this subsection and with other applicable procedures.

(8)~~(9)~~ No trust fund money may be expended for the planning or construction of any new school or expansion of any existing school without the specific prior approval of the Legislature, designating the location and the amount to be expended for the training school. A public criminal justice training school designated as the primary training center for a region must be approved by the commission to receive and distribute the disbursements authorized under subsection *(9)*~~(10)~~.

(9)~~(10)~~ The Executive Office of the Governor is authorized to approve, for disbursement from funds appropriated to the Department of Law Enforcement, Administrative Trust Fund, ~~Law Enforcement Training Trust Fund, and Correctional Officer Training Trust Fund,~~ or~~, beginning July 1, 1986,~~ the Criminal Justice Training Trust Fund, those sums necessary and required for the administration of the division and implementation of the training programs approved by the commission.

(10)~~(11)~~ There is created the Criminal Justice Training Improvement Trust Fund. Funds deposited into the Criminal Justice Training Improvement Trust Fund shall consist of funds annually transferred from the ~~Law Enforcement Training Trust Fund and, effective July 1, 1986, the~~ Criminal Justice Training Trust Fund and which have been approved by the Legislature. Deposits to and expenditures from the Criminal Justice Training Improvement Trust Fund shall not exceed $250,000 per annum. *These funds shall be used to develop, validate, update and maintain test or assessment instruments relating to selec-*

tion, employment, training or evaluating of officers, instructors, or courses. Pursuant to s. 943.12(4), (5) and (8), the commission shall adopt those test or assessment instruments, which are appropriate and job-related, as minimum requirements. Any money remaining in the fund at the end of the fiscal year, less obligations, in excess of $250,000 shall be deposited in the *Additional Court Cost Clearing Trust Fund* ~~Criminal Justice Training Trust Fund~~. The Criminal Justice Training Improvement Trust Fund may receive funds from any other public or private source. ~~In order of priority, the commission shall use these funds to establish the provisions of s. 943.17, to implement the provisions of subsection (12), and to develop the specific tests provided under s. 943.12(9).~~ A trust fund for grant matching by the state is created under the administration of the Division of Housing and Community Development of the Department of Community Affairs. Disbursement of such funds shall be made for the purpose of matching, implementing, administering, evaluating, and qualifying for federal funds providing assistance to state and local governments for meeting criminal justice needs. The Department of Community Affairs is authorized to approve, for disbursement from the trust fund, those appropriated sums necessary and required by the state for grant matching, implementing, administering, evaluating, and qualifying for such federal funds. Disbursements from the trust fund for the purpose of supplanting state general revenue funds shall not be made without specific legislative appropriation.

(11)~~(12)~~ The commission, with the approval of the head of the department, either by contract or agreement, may authorize any university or community college in the state, or any other organization, to provide training for or facilities for training officers in the areas of crime reduction, crime control, inmate control, or professional development.

~~(13) Funds that are not expended by the end of the budget cycle or through a supplemental budget approved by the commission shall revert to the trust fund.~~

(12)~~(14)~~ Effective July 1, 1985, there is created the Administrative Trust Fund for the purpose of providing for the payment of necessary and proper expenses incurred by the operation of the division. The division shall administer the Administrative Trust Fund.

~~(15) Effective July 1, 1985, the moneys placed in the Administrative Trust Fund shall consist of 75 cents of each $2.50 assessment and moneys received from any other public or private source. Effective July 1, 1986, the moneys placed in the Administrative Trust Fund shall consist of 75 cents of each $3 assessment and moneys received from any other public or private source.~~

(13)~~(16)~~ Notwithstanding any other provision of law, no funds collected and deposited pursuant to subsections (4) and *(10)*~~(11)~~ shall be expended unless specifically appropriated by the Legislature.

Section 12. Subsection (3) of section 318.19, as amended by chapter 85-250, Laws of Florida, is hereby repealed.

Section 13. This act shall take effect October 1, 1986.

Amendment 2—In title, on page 1, strike all of lines 3-22, and insert: amending s. 27.3455, F.S.; deleting provisions requiring payment of court cost prior to accrual of gain time and community service in lieu of cost for indigent persons; amending s. 34.191, F.S.; exempting civil traffic infractions from current distribution requirements; amending s. 316.008, F.S.; authorizing enactment of local ordinances to provide an additional fine for fire safety related noncriminal traffic infractions; amending s. 316.660, F.S.; removing provisions relating to current disbursement of fines for certain speeding violations and disbursement to school crossing guard programs; amending s. 318.14, F.S.; removing requirement for posting a bond; extending the time for payment of civil penalties; increasing court costs for persons who elect alternatives to fines for infractions; amending s. 318.15, F.S.; providing penalties for failure to comply with civil penalty or appear for noncriminal traffic infractions; amending s. 318.18, F.S.; increasing civil penalties for noncriminal infractions; amending s. 318.20, F.S.; removing the requirement that traffic citations contain a schedule of points and civil penalties; amending s. 318.21, F.S.; providing a schedule for distribution of civil penalties and costs; amending s. 401.113, F.S.; providing for use of funds deposited in the Emergency Medical Services Trust Fund under s. 318.21; amending s. 943.25, F.S.; requiring submission of specific recommended priority issues; providing for distribution of funds deposited under s. 318.21; providing that funds may be invested; providing that the commission shall have the authority to inspect independent audits; providing for use of funds in the Criminal Justice Training Improvement Trust Fund; removing obsolete language; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 511 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Dunn	Kirkpatrick	Scott
Barron	Fox	Kiser	Stuart
Beard	Frank	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Hair	Margolis	Weinstein
Crawford	Hill	Myers	
Crenshaw	Jennings	Peterson	
Deratany	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal

The Senate resumed consideration of—

HB 1270—A bill to be entitled An act relating to criminal practices; creating chapter 772, F.S., to be known as the "Civil Remedies for Criminal Practices Act"; providing definitions; making unlawful the receipt of proceeds from certain criminal activities; requiring criminal intent; making unlawful the acquisition or maintenance through certain criminal activities of an interest in or participation in enterprises or real property; providing a civil cause of action to victims of certain criminal activities; providing for estoppel in certain civil actions against convicted persons; providing for admissibility of guilty verdicts; providing statute of limitations for certain civil actions; providing for suspension of statute of limitations under certain circumstances; providing for remedies to be nonexclusive; providing for election of cause of action by plaintiff; providing immunity from damages for governmental entities; providing for attorneys' fees to be taxed as costs; amending s. 812.035, F.S., limiting a civil remedy to the state; amending s. 895.05, F.S.; limiting a civil remedy to the state; clarifying right to jury trial; providing for priorities on forfeited properties; providing an effective date.

—with pending Amendment 1 which was adopted.

Senator Dunn moved the following amendment which was adopted:

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: An act relating to criminal practices; amending ss. 16.53, 27.345, F.S.; providing a formula for distribution of a portion of moneys recovered by the Attorney General or a state attorney in a civil action under the act; creating ch. 772, F.S., to be known as the "Civil Remedies for Criminal Practices Act"; providing definitions; making unlawful the receipt of proceeds from certain criminal activities; requiring criminal intent; making unlawful the acquisition or maintenance through certain criminal activities of an interest in or participation in enterprises or real property; providing a civil cause of action to victims of certain criminal activities; providing for estoppel in certain civil actions against convicted persons; providing statute of limitations for certain civil actions; providing for suspension of statute of limitations under certain circumstances; providing for remedies to be nonexclusive; providing immunity from damages for governmental entities; providing for attorneys' fees to be taxed as costs; amending s. 812.035, F.S.; limiting a civil remedy to the state; amending s. 895.02, F.S.; defining "racketeering activity"; amending s. 895.05, F.S.; limiting a civil remedy to the state; clarifying right to jury trial; providing for priorities on forfeited properties; amending s. 895.09, F.S.; providing for distribution of a portion of funds obtained through forfeiture proceedings to counties and municipalities; providing an effective date.

On motion by Senator Hair, by two-thirds vote HB 1270 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Crenshaw	Gordon	Kirkpatrick
Barron	Deratany	Grant	Kiser
Beard	Dunn	Hair	Langley
Childers, D.	Fox	Hill	Malchon
Childers, W. D.	Frank	Jennings	Mann
Crawford	Girardeau	Johnson	Margolis

Meek	Scott	Thurman
Myers	Stuart	Vogt
Plummer	Thomas	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal

CS for CS for SB 891 was laid on the table.

On motions by Senator Crawford, by two-thirds vote HB 1255 was withdrawn from the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Crawford—

HB 1255—A bill to be entitled An act relating to alcoholic beverages and tobacco; amending ss. 210.70 and 561.12, F.S., and creating s. 561.025, F.S.; creating an Alcoholic Beverage and Tobacco Trust Fund and providing for deposit of specified funds therein; creating ss. 563.025 and 564.025, F.S.; imposing a surtax on license fees for vendors of beer and wine; creating ss. 563.045 and 564.041, F.S.; amending subsection 1 of s. 563.06, F.S., requiring markings on malt beverage containers; requiring brand registration for beer and wine; providing fees; providing a penalty; amending s. 565.09, F.S.; increasing the brand registration fee for spirituous liquors; amending s. 215.22, F.S.; authorizing a service charge deduction from the trust fund; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 600 and read the second time by title.

Further consideration of HB 1255 was deferred.

Consideration of SJR 836 was deferred.

SB 869—A bill to be entitled An act relating to bond finance; creating the "Local Government Bond Bank Act"; providing legislative intent; providing definitions; providing powers of the Division of Bond Finance of the Department of General Services; providing for certain bonds and notes; providing penalties; providing for validation of certain bonds; providing for certain resolutions and indentures; providing intent with respect to certain pledges of revenues; authorizing the creation of the Local Government Bond Bank Reserve Trust Fund; providing for certain additional reserves and funds; providing remedies; providing immunity; providing for bonds as legal investments and security; providing exemption from certain taxation; providing for advisory statements; providing for the purchase of local government bonds; providing for remedies upon default; providing for the form of certain securities; providing for estoppel; providing for construction of the act; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Crawford and adopted:

Amendment 1—On page 3, line 15, strike "that the" and insert: with reference to a local government bond that such local government

Amendment 2—On page 3, line 18, strike "a" and insert: local government bond

Amendment 3—On page 8, strike all of lines 3 and 4 and renumber subsequent sections.

Amendment 4—On page 9, lines 20 and 21, strike everything after "Statutes,"

Amendment 5—On page 9, lines 22 and 23, strike "pursuant to such basis, method, or formula"

Amendment 6—On page 10, lines 27 and 28, strike everything after "issued."

Amendment 7—On page 20, line 24, strike No. . . . . and insert: No. 836

Amendment 8—On page 20, line 25, after "issuance" insert: of revenue bonds

Amendment 9—On page 20, line 26, strike "of revenue bonds"

Amendment 10—On page 20, lines 22-27, strike everything after "Section 23." and insert: This act shall take effect on July 1, 1986, or upon becoming law, whichever occurs later, except that Section 9 of this act shall take effect upon the ratification of an amendment to the Florida Constitution authorizing the provisions set forth therein.

Senator Scott moved the following amendment which failed:

Amendment 11—On page 8, between lines 24 and 25, insert:

(d) Have outstanding bonds the total of which at any time exceeds one hundred million dollars.

Senator Crenshaw moved the following amendment which was adopted:

Amendment 12—On page 6, between lines 29 and 30, insert:

(k) To purchase the bonds of unit of local government which furnishes proof to the division that it shall have been unable to sell its bonds on the private market, or that it shall have been unable to obtain a rating on its bonds of not greater than "Baa" or "BBB" from a nationally recognized rating agency. "Reasonable proof" shall, for purposes of this section, mean letters from two or more investment banking firms declining to act as underwriter for a bond issue, or proof that an issue has, or is going to receive, a rating of not greater than "Baa" or "BBB" from one nationally recognized rating agency.

(Reletter subsequent paragraphs.)

The vote was:

Yeas—18

Barron	Hill	Malchon	Thomas
Beard	Jennings	Mann	Thurman
Crenshaw	Kirkpatrick	McPherson	Vogt
Frank	Kiser	Myers	
Hair	Langley	Scott	

Nays—13

Mr. President	Dunn	Margolis	Weinstein
Childers, D.	Fox	Neal	
Childers, W. D.	Girardeau	Plummer	
Crawford	Jenne	Stuart	

Senator Crenshaw moved the following amendment:

Amendment 13—On page 9, strike all of lines 12-28 and insert:

(c) Bear interest at fixed rates of interest, which rates do not exceed the interest rate limitations specified in s. 215.84(3), Florida Statutes.

Further consideration of SB 869 was deferred.

The Senate resumed consideration of—

CS for SB 895—A bill to be entitled An act relating to optometry; amending ss. 463.001, 463.002, 463.003, 463.005, 463.006, 463.007, 463.009, 463.012, 463.013, 463.015, 463.016, 463.018, 463.019, F.S.; reviving and readopting, notwithstanding scheduled repeals, chapter 463, F.S., relating to the regulation of optometry; providing legislative findings and purpose; providing definitions; providing conforming language; providing application and examination fees; providing continuing education requirements; prescribing conditions for the release of a contact lens prescription; proscribing certain acts and providing criminal penalties therefor; providing additional grounds for disciplinary action and administrative penalties; increasing administrative fines; providing for licensure by endorsement; providing for prospective application; creating s. 463.0055, F.S., providing for appropriate advice; repealing s. 463.014, F.S., relating to prohibited acts; providing for future repeal and legislative review; providing an effective date.

—as amended.

Senator Thomas moved the following amendment:

Amendment 2—On page 1, line 28, strike everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 463.005, Florida Statutes, to read:

463.005 Authority to make rules.—The Board of Optometry is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by

this chapter and as may be necessary to protect the health, safety, and welfare of the public. Such rules shall include, but not be limited to, rules relating to:

(4) No later than 60 days after the effective date of this act, the Board of Optometry and the Board of Opticianry, in conjunction with the Department of Professional Regulation, shall, by rule, adopt a protocol relating to elements that may be contained in a leasing arrangement between licensed practitioners under this chapter and licensed practitioners under part I of chapter 484 or retail optical firms leasing space to licensed practitioners. The protocol, representing the mutual agreement of the parties, shall include the following, at a minimum:

(a) General provisions:

1. Individuals party to the protocol:

a. Name, address and licensed practitioner certificate number.

b. Name and address of establishment.

2. Nature of practice and practice location, including primary and satellite sites.

3. Date developed and dates amended.

(b) Specific provisions:

1. Identification of premises.

2. Term of protocol.

3. Consideration.

4. Purpose of use of premises.

5. Rights of the licensed practitioner:

a. Practice of optometry.

b. Fixing of prices.

c. Collection of fees.

d. Maintaining records.

e. Hours of operation.

f. Employees.

g. Posting of signs identifying his name.

6. Termination.

A copy of the protocol and a copy of the notice required by sub-subparagraph (b)5.g. shall be kept at the site of the licensed practitioner's office.

Section 2. Section 463.009, Florida Statutes, is amended to read:

463.009 Supportive personnel*; shared personnel.*—

(1) No person other than a licensed optometrist may engage in the practice of optometry, except that a licensed optometrist may delegate to nonlicensed supportive personnel those duties, tasks, and functions which do not fall within the purview of s. 463.002(4). All such delegated acts shall be performed under the direct supervision of a licensed optometrist who shall be responsible for all such acts performed by persons under his supervision.

(2) A licensed practitioner may share the services of an employee with another person, provided that no service provided by the shared personnel shall constitute the practice of optometry.

Section 3. Section 463.0115, Florida Statutes, is created to read:

463.0115 Identification of licensed practitioner to the public.—A licensed practitioner engaged in the practice of optometry in or on the premises of a commercial or mercantile establishment shall assure that the manner in which the telephone is answered accurately identifies the entity which the caller has reached.

Section 4. Subsection (3) is added to section 463.012, Florida Statutes, to read:

463.012 Prescriptions; filing; duplication; release.—

(3) A licensed practitioner shall, upon request by a patient or his agent, promptly release any original prescription, including complete specifications for contact lenses.

Section 5. Section 463.0125, Florida Statutes, is created to read:

463.0125 Notice regarding filling of prescriptions.— Every licensed practitioner shall display in a prominent place that is in clear and unobstructed public view, at or near the immediate vicinity of the licensed practitioner's location, a sign in block letters not less than 1 inch in height which shall read "ANY PERSON OBTAINING EYE EXAMINATION SERVICES MAY HAVE HIS/HER PRESCRIPTION FILLED AT THE ESTABLISHMENT OF HIS/HER CHOICE."

Section 6. Paragraphs (b) and (c) of subsection (1) of section 463.014, Florida Statutes, are amended to read:

463.014 Certain acts prohibited.—

(1) Except as otherwise provided in this section:

(b) No corporation, lay body, organization, or individual other than a licensed *practitioner* ~~optometrist~~ shall engage in the practice of optometry through the means of engaging the services, upon a ~~salary,~~ commission~~,~~ or other means or inducement, of any person licensed to practice optometry in this state.

(c) No *licensed practitioner* ~~optometrist~~ shall engage in the practice of optometry with any organization, corporation, group, or lay individual. This provision shall not prohibit *licensed practitioners* ~~optometrists~~ from employing, or from forming partnerships or professional associations with, *licensed practitioners* ~~optometrists~~ licensed in this state*, or from being employed on a salary basis by a corporation, lay body, organization, or individual.*

Section 7. Subsection (4) is added to section 484.005, Florida Statutes, to read:

484.005 Authority to make rules.—The board is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon it by this part and as may be necessary to protect the health and safety of the public. Such rules shall include, but not be limited to, rules relating to:

(4) No later than 60 days after the effective date of this act, the Board of Optometry and the Board of Opticianry, in conjunction with the Department of Professional Regulation, shall, by rule, adopt a protocol relating to elements that may be contained in a leasing arrangement between licensed practitioners under this part and licensed practitioners under chapter 463 or retail optical firms leasing space to licensed practitioners. The protocol, representing the mutual agreement of the parties, shall include the following, at a minimum:

(a) General provisions:

1. Individuals party to the protocol:

a. Name, address, and licensed practitioner certificate number.

b. Name and address of establishment.

2. Nature of practice and practice location, including primary and satellite sites.

3. Date developed and dates amended.

(b) Specific provisions:

1. Identification of premises.

2. Term of protocol.

3. Consideration.

4. Purpose of use of premises.

5. Rights of the licensed practitioner:

a. Practice of optometry.

b. Fixing of prices.

c. Collection of fees.

d. Maintaining records.

e. Hours of operation.

f. Employees.

g. Posting of signs identifying his name.

6. Termination.

A copy of the protocol and a copy of the notice required by sub-subparagraph (b)5.g. shall be kept at the site of the licensed practitioner's office.

Section 8. This act shall take effect upon becoming a law.

Further consideration of CS for SB 895 was deferred.

CS for SB 353—A bill to be entitled An act relating to public records; amending s. 110.123, F.S.; exempting certain medical records and medical claims records of state employees, former employees, and eligible dependents from disclosure as public records; amending s. 112.08, F.S.; exempting certain medical records and medical claims records of county or municipal employees, eligible dependents, and former employees from disclosure as public records; providing an effective date.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendment which was moved by Senator D. Childers and adopted:

Amendment 1—On page 2, between lines 18 and 19, insert:

(8) Patient medical records and medical claims records of water management district employees, former employees, and eligible dependents, in the custody or control of the water management district under its group insurance plan established pursuant to s. 373.605 are confidential and exempt from s. 119.07(1). Such records shall not be furnished to any person other than the employee or his legal representative, except upon written authorization of the employee, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the employee or his legal representative by the party seeking such records.

Senator Jenne moved the following amendment which was adopted:

Amendment 2—On page 2, line 1, strike "Subsection (7) is" and insert: Subsections (7) and (8) are

On motion by Senator D. Childers, by two-thirds vote CS for SB 353 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gersten	Johnson	Myers
Beard	Girardeau	Kirkpatrick	Peterson
Childers, D.	Gordon	Kiser	Plummer
Childers, W. D.	Grant	Langley	Scott
Crenshaw	Grizzle	Malchon	Stuart
Deratany	Hair	Mann	Thomas
Dunn	Hill	Margolis	Thurman
Fox	Jenne	McPherson	Vogt
Frank	Jennings	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Neal

On motion by Senator W. D. Childers, the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator W. D. Childers, SB 1081 was withdrawn from the committees of reference and indefinitely postponed.

SPECIAL ORDER, continued

CS for SB 119—A bill to be entitled An act relating to state lands; amending s. 253.025, F.S.; providing for the purchase of tax certificates or tax deeds relating to the purchase of property eligible for purchase under that section; amending s. 253.023, F.S.; providing for additional moneys to be deposited in the Conservation and Recreation Lands Trust Fund; transferring certain moneys to the Land Acquisition Trust Fund for a certain purpose; amending s. 375.041, F.S.; prohibiting certain uses of the Land Acquisition Trust Fund; appropriating the first year's debt service for certain purposes; amending s. 253.115, F.S.; authorizing the use of open real estate listings for the sale of certain state-owned lands; amending ss. 253.53, 253.54, F.S.; providing for opening of bids for oil and gas leases; providing an effective date.

—was read the second time by title.

Senator McPherson moved the following amendment which was adopted:

Amendment 1—On page 11, lines 7 and 8, strike "or another state agency" and insert: *, county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions.*

Senator Langley moved the following amendment which was adopted:

Amendment 2—On page 1, line 22, insert:

Section 1. The Board of Trustees of the Internal Improvement Trust Fund, as successor in title, shall convey to the City of Wildwood that parcel of land that was conveyed by the city to the State of Florida Board of Commissioners of State Institutions on December 15, 1965, by deed recorded in Book 73, Page 355, Public Records of Sumter County, which parcel is described as follows:

From the northeast corner of the NW 1/4 of the NE 1/4 of Section 7, Township 19 South, Range 23 East, run west for 210 feet to the Point of Beginning; thence run south to the northeasterly right-of-way of S.A.L. Railroad; thence northwesterly along said right-of-way to the north line of said section; thence east to the Point of Beginning, in the City of Wildwood, Sumter County, Florida.

(Renumber subsequent sections.)

Senator McPherson moved the following amendment which was adopted:

Amendment 3—In title, on page 1, line 6, after the semicolon (;) insert: providing for the conveyance of land from county governments; authorizing certain acquisition of state land by quitclaim deed;

Senator Langley moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 2, after the semicolon (;) insert: providing for reconveyance to the City of Wildwood of a parcel of land that the city donated to the state Board of Commissioners of State Institutions in 1965;

On motion by Senator McPherson, by two-thirds vote CS for SB 119 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Beard	Frank	Kiser	Peterson
Childers, D.	Girardeau	Langley	Plummer
Childers, W. D.	Grant	Malchon	Scott
Crawford	Grizzle	Mann	Stuart
Crenshaw	Hair	Margolis	Thomas
Deratany	Hill	McPherson	Thurman
Dunn	Jennings	Meek	Vogt
Fox	Johnson	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Kirkpatrick, Neal

Senator Stuart presiding

On motion by Senator Deratany, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 1428 and requests the concurrence of the Senate.

Allen Morris, Clerk

HCR 1428—A concurrent resolution relating to the correction of HB 1013, relating to Brevard County.

On motion by Senator Deratany, HCR 1428 was taken up out of order by unanimous consent and read the second time in full, adopted and certified to the House.

The vote on adoption was:

Yeas—32

Beard	Frank	Jennings	Peterson
Childers, D.	Gersten	Langley	Plummer
Childers, W. D.	Girardeau	Malchon	Scott
Crawford	Gordon	Mann	Stuart
Crenshaw	Grant	Margolis	Thomas
Deratany	Grizzle	McPherson	Thurman
Dunn	Hair	Meek	Vogt
Fox	Hill	Myers	Weinstein

Nays—None

SPECIAL ORDER, continued

SB 263—A bill to be entitled An act relating to the Department of State; amending s. 20.10, F.S.; renaming the Division of Archives, History and Records Management as the Division of Historical Resources; renaming the Division of Library Services as the Division of Library and Information Services; amending s. 267.021, F.S.; deleting definitions of "public records," "Florida State Archives," and "records center"; amending and renumbering s. 265.135, F.S., relating to the definition of "Folklife"; amending and renumbering s. 267.042, F.S.; creating the Florida State Archives within the Division of Library and Information Services; providing purposes; providing duties of the division with respect to archives and records; amending and renumbering s. 267.051, F.S.; creating a records and information management program within the Division of Library and Information Services; providing duties of the division with respect to records management; defining "agency" for purposes of cooperation with the division; amending ss. 17.27, 119.01, 119.041, 119.05, 119.09, and 228.093, F.S.; amending and renumbering s. 267.10, F.S.; transferring duties from the former Division of Archives, History and Records Management to the Division of Library and Information Services; creating s. 257.375, F.S., establishing a records management trust fund within said division; amending s. 258.081, F.S.; renaming the Stephen Foster Memorial as the Stephen Foster State Folk Culture Center; amending and renumbering s. 265.136, F.S.; providing duties of the Florida Folklife Council with respect to the Division of Historical Resources and the state folklorist; amending and renumbering s. 265.137, F.S.; providing for multiple Florida Folklife Programs; providing duties of the Division of Historical Resources with respect thereto; providing for the annual Florida Folk Festival; deleting provisions relating to employment of a director for the Florida Folklife Program; providing for employment and duties of a state folklorist; amending and renumbering s. 265.138, F.S.; placing the Florida Folklife Trust Fund under the Division of Historical Resources; modifying use of the trust fund; amending s. 267.031, F.S., removing provisions relating to administration of the Division of Archives, History and Records Management; removing a penalty for violation of division rules; amending s. 267.061, F.S., modifying employment and duties of the State Archaeologist and State Historic Preservation Officer; amending s. 267.072, F.S.; modifying provisions relating to operation of the Museum of Florida History; creating s. 267.17, F.S.; providing for establishment of nonprofit citizen support organizations to promote the archaeology, museum, folklife, and historic preservation programs of the Division of Historical Resources; providing for use of division property and facilities; providing for annual audit; amending ss. 15.18, 193.505, 215.22, 228.0715, 253.025, 257.01, 257.02, 257.031, 257.04, 257.05, 257.12, 257.14, 257.15, 257.16, 257.171, 257.191, 257.192, 257.22, 257.23, 257.24, 258.501, 259.035, 266.106, 266.110, 266.115, 266.206, 266.306, 266.406, 266.506, 267.011, 267.0612, 267.0617, 267.062, 267.073, 267.081, 267.11, 267.12, 267.14, 283.55, 375.021, 380.061, 413.011, 415.103, 415.504, and 561.20, F.S.; amending and renumbering ss. 267.15, 267.151, 267.152, and 267.153, F.S.; conforming name changes, duties, and cross references to the provisions of the act; repealing s. 267.041, F.S., relating to duties of the director of the Division of Archives, History and Records Management; repealing s. 267.09, F.S., relating to the transfer of certain powers and duties to said division; providing an effective date.

—was read the second time by title.

Three amendments were adopted to SB 263 to conform the bill to HB 357.

On motions by Senator Vogt, by two-thirds vote HB 357 was withdrawn from the Committees on Governmental Operations, Rules and Calendar and Appropriations.

On motion by Senator Vogt—

HB 357—A bill to be entitled An act relating to the Department of State; amending s. 20.10, F.S.; renaming the Division of Archives, History and Records Management as the Division of Historical Resources; renaming the Division of Library Services as the Division of Library and Information Services; amending s. 267.021, F.S.; deleting definitions of "public records," "Florida State Archives," and "records center"; amending and renumbering s. 265.135, F.S., relating to the definition of "Folklife"; amending and renumbering s. 267.042, F.S.; creating the Florida State Archives within the Division of Library and Information Services; providing purposes; providing duties of the division with respect to archives and records; amending and renumbering s. 267.051, F.S.; creating a records and information management program within the Division of Library and Information Services; providing duties of the division with respect to records management; defining "agency" for purposes of cooperation with the division; amending ss. 17.27, 119.01, 119.041, 119.05, 119.09, and 228.093, F.S.; amending and renumbering s. 267.10, F.S.; transferring duties from the former Division of Archives, History and Records Management to the Division of Library and Information Services; creating s. 257.375, F.S., establishing a records management trust fund within said division; amending s. 258.081, F.S.; renaming the Stephen Foster Memorial as the Stephen Foster State Folk Culture Center; amending and renumbering s. 265.136, F.S.; providing duties of the Florida Folklife Council with respect to the Division of Historical Resources and the state folklorist; amending and renumbering s. 265.137, F.S.; providing for multiple Florida Folklife Programs; providing duties of the Division of Historical Resources with respect thereto; providing for the annual Florida Folk Festival; deleting provisions relating to employment of a director for the Florida Folklife Program; providing for employment and duties of a state folklorist; amending and renumbering s. 265.138, F.S.; placing the Florida Folklife Trust Fund under the Division of Historical Resources; modifying use of the trust fund; amending s. 267.031, F.S., removing provisions relating to administration of the Division of Archives, History and Records Management; removing a penalty for violation of division rules; amending s. 267.061, F.S., modifying employment and duties of the State Archaeologist and State Historic Preservation Officer; amending s. 267.072, F.S.; modifying provisions relating to operation of the Museum of Florida History; creating s. 267.17, F.S.; providing for establishment of nonprofit citizen support organizations to promote the archaeology, museum, folklife, and historic preservation programs of the Division of Historical Resources; providing for use of division property and facilities; providing for annual audit; amending ss. 15.18, 193.505, 215.22, 228.0715, 253.025, 257.01, 257.02, 257.031, 257.04, 257.05, 257.12, 257.14, 257.15, 257.16, 257.171, 257.191, 257.192, 257.22, 257.23, 257.24, 258.501, 259.035, 266.106, 266.110, 266.115, 266.206, 266.306, 266.406, 266.506, 267.011, 267.0612, 267.0617, 267.062, 267.073, 267.081, 267.11, 267.12, 267.14, 283.55, 375.021, 380.061, 413.011, 415.103, 415.504, and 561.20, F.S.; amending and renumbering ss. 267.15, 267.151, 267.152, and 267.153, F.S.; conforming name changes, duties, and cross references to the provisions of the act; amending s. 215.22, F.S., providing for service charge deductions from the Records Management Trust Fund; repealing s. 267.041, F.S., relating to duties of the director of the Division of Archives, History and Records Management; repealing s. 267.09, F.S., relating to the transfer of certain powers and duties to said division; providing an effective date.

—a companion measure, was substituted for SB 263 and read the second time by title.

Senator Vogt moved the following amendments which were adopted:

Amendment 1—On page 47, strike line 9 and insert:

Section 72. The statutory powers, duties and functions, records, and property of the Career Service Commission are hereby transferred by a type seven transfer, as defined in s. 20.06(7), Florida Statutes, to the Public Employees Relations Commission within the Department of Labor and Employment Security.

Section 73. Subsections (2) and (4) of section 110.124, Florida Statutes, are amended to read:

110.124 Retirement or transfer of employees aged 65 or older.—

(2) Whenever any employee who has attained age 65 is retired by an

agency or department, he may apply for relief from the action to the *Public Employees Relations* ~~Career Service~~ Commission *pursuant to s. 447.208*. The employee shall continue in employment pending the outcome of the application. If the employee continues in employment following the decision of the commission, no further action shall be taken by the agency or department to retire the employee for a period of 1 year following the date of the decision of the commission unless approved by the commission upon a showing by the agency or department that the employee's capability has changed to a sufficient extent that he is no longer able to perform any job within such agency or department.

(4) If mutually agreed to by the employee and the agency or department, an employee who has attained age 65 may be reduced to a part-time position for the purpose of phasing the employee out of employment into retirement. Such an arrangement may also be required by the *Public Employees Relations* ~~Career Service~~ Commission as part of its decision in any appeal arising out of this section. A reduction to a part-time position may be accompanied by an appropriate reduction in pay.

Section 74. Subsections (1), (4), and (5) of section 110.227, Florida Statutes, are amended to read:

110.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, and transfers.—

(1) Any employee who has permanent status in the career service may only be suspended or dismissed for cause. Cause shall include, but not be limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, willful violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime involving moral turpitude. *Each agency head shall ensure that all employees of the agency are completely familiar with the agency's established procedures on disciplinary actions and grievances.*

(4) Any permanent career service employee subject to reduction in pay, transfer, layoff, or demotion shall be notified in writing by the agency prior to its taking such action. Such notice shall be sent by certified mail with return receipt requested. Such actions shall be appealable to the *Public Employees Relations* ~~Career Service~~ Commission, pursuant to *s. 447.208 and* rules adopted by the *commission* ~~department~~.

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to such notice, and prior to the date the action is to be taken, the affected employee shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him. The notice to the employee required by this paragraph shall be sent by certified mail with return receipt requested. An employee who is suspended or dismissed shall be entitled to a hearing before the *Public Employees Relations* ~~Career Service~~ Commission *or its designated agent* pursuant to s. *447.208 and rules adopted by the commission* ~~110.309~~.

(b) In extraordinary situations such as when the retention of a permanent career service employee would result in damage to state property, would be detrimental to the best interest of the state, or would result in injury to the employee, a fellow employee, or some other person, such employee may be suspended or dismissed *without 10 days' prior notice* ~~immediately~~, provided that written *or oral* notice of such action, *evidence of* ~~and~~ the reasons therefor, *and an opportunity to rebut the charges* are furnished to the employee *prior to such dismissal or suspension* ~~within 24 hours~~. Such notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *Agency compliance with the foregoing procedure requiring notice, evidence and an opportunity for rebuttal must be substantiated.* Any employee who is suspended or dismissed pursuant to the provisions of this paragraph shall be entitled to a hearing before the *Public Employees Relations* ~~Career Service~~ Commission *or its designated agent* pursuant to s. *447.208* ~~110.309~~, except that such hearing shall be held no more than 20 days after the filing of the notice of appeal by the employee.

Section 75. Subsection (4) of section 112.044, Florida Statutes, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter 110 and who is aggrieved by a violation of this act may appeal to the *Public Employees Relations* ~~Career Service~~ Commission under the conditions and following the procedures prescribed in *part II of* chapter *447* ~~110~~. Any person other than an employee who is within the Career Service System established by chapter 110, *or any person employed by the Public Employees Relations Commission,* who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act.

Section 76. Paragraph (i) of subsection (3) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(i) The Department of Revenue~~, under the applicable rules of the Career Service Commission,~~ is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

Section 77. Section 284.30, Florida Statutes, is amended to read:

284.30 Florida Casualty Insurance Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "Florida Casualty Insurance Risk Management Trust Fund," is created to be set up by the Department of Insurance and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the *Public Employees Relations* ~~Career Service~~ Commission. A party to a suit in any court, to be entitled to have his attorney's fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Insurance; and thereafter the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 78. Section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The insurance risk management trust fund shall, unless specifically excluded by the Department of Insurance, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the *Public Employees Relations* ~~Career Service~~ Commission.

Section 79. Section 295.11, Florida Statutes, is amended to read:

295.11 Investigation of reason for not employing preferred applicant.—The Division of Veterans' Affairs shall, upon the written request of any person specified in s. 295.07, investigate any complaint filed by such person when the person has made application with any state agency or any agency of a political subdivision of the state for a position which was awarded to a nonveteran and the person feels himself aggrieved under the provisions of this law. The division shall use all of its powers on behalf of a complainant and shall assist the complainant in all ways, other than legal assistance. Nothing in this section, however, shall be construed as prohibiting a veteran aggrieved by a violation of this act from bringing a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act or, in those cases pertaining to s. 295.09, from seeking relief through the *Public Employees Relations Commission pursuant to s. 447.208 and rules adopted by the* ~~Career Service~~ commission.

Section 80. Subsection (1) of section 295.14, Florida Statutes, is amended to read:

295.14 Penalties.—

(1) When the *Public Employees Relations* ~~Career Service~~ Commission, after a hearing on notice conducted according to rules promulgated by the commission, determines that a violation of s. 295.09(1)(a) or (b)

has occurred and sustains the veteran seeking redress, the commission shall order the offending agency, employee, or officer of the state to comply with the provisions of s. 295.09(1)(a) or (b) and to compensate such veteran for the loss of any wages incurred as a result of such violation, which order shall be conclusive on the agency, employee, or officer concerned. The action of the commission shall be in writing and shall be served on the parties concerned by certified mail with return receipt requested.

Section 81. Paragraph (g) of subsection (4) of section 376.11, Florida Statutes, is amended to read:

376.11 Florida Coastal Protection Trust Fund.—

(4)

(g) The Department of Revenue~~, according to the applicable rules of the Career Service Commission,~~ is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

Section 82. Paragraph (g) of subsection (5) of section 376.307, Florida Statutes, is amended to read:

376.307 Water Quality Assurance Trust Fund.—

(5)

(g) The Department of Revenue~~, according to the applicable rules of the Career Service Commission,~~ is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

Section 83. Subsections (8), (9), (10), and (11) are added to section 447.207, Florida Statutes, to read:

447.207 Commission; powers and duties.—

(8) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals arising out of any suspension, reduction in pay, transfer, layoff, demotion, or dismissal of any permanent employee in the State Career Service System. Written notice of any such appeal shall be filed with the commission within 20 days after the date on which the notice of suspension, reduction in pay, transfer, layoff, demotion, or dismissal is received by the employee.

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such order as it deems appropriate, arising out of:

(a) Section 110.124, relating to retirement or transfer of State Career Service System employees aged 65 or older.

(b) Section 112.044(4), relating to age discrimination.

(c) Section 295.11, relating to reasons for not employing a preferred veteran applicant.

(10) Appeals to the commission pursuant to subsection (8) or subsection (9) shall be the exclusive administrative review of such actions, notwithstanding the provisions of chapter 120. However, nothing in this subsection shall affect an employee's rights pursuant to s. 447.401 or s. 447.503.

(11) Decisions issued by the commission pursuant to subsection (8) or subsection (9) shall be final agency action which shall be reviewable pursuant to s. 447.504.

Section 84. Section 447.208, Florida Statutes, is created to read:

447.208 Procedure with respect to certain appeals under s. 447.207.—

(1) Any person filing an appeal pursuant to s. 447.207(8) or (9) shall be entitled to a hearing pursuant to s. 447.503(4) and (5) and in accordance with chapter 120; however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is requested by the person and granted by the commission. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

(2) Nothing contained in this section shall be construed to prohibit any person from representing himself in proceedings before the commission or from being represented by legal counsel or by any individual who qualifies as a representative pursuant to rules promulgated and adopted by the commission.

(3) With respect to hearings relating to suspensions or dismissals pursuant to the provisions of this section:

(a) Upon a finding that just cause existed for the suspension or dismissal, the commission shall affirm the suspension or dismissal.

(b) Upon a finding that just cause did not exist for the suspension or dismissal, the commission may order the reinstatement of the employee, with or without back pay.

(c) Upon a finding that just cause for disciplinary action existed, but did not justify the severity of the action taken, the commission may, in its limited discretion:

1. Reduce a dismissal to a suspension for such time as the commission may fix; or

2. Reduce the period of a suspension.

(d) The commission is limited in its discretionary reduction of dismissals and suspensions to consider only the following circumstances:

1. The seriousness of the conduct as it relates to the employee's duties and responsibilities.

2. Action taken with respect to similar conduct by other employees.

3. The previous employment record and disciplinary record of the employee.

4. Extraordinary circumstances beyond the employee's control which temporarily diminished the employee's capacity to effectively perform his duties or which substantially contributed to the violation for which punishment is being considered.

The agency may present evidence to refute the existence of these circumstances.

(e) Any order of the commission issued pursuant to this subsection may include back pay, if applicable, and an amount, to be determined by the commission and paid by the agency, for reasonable attorney's fees, witness fees, and other out-of-pocket expenses incurred during the prosecution of an appeal against an agency in which the commission sustains the employee.

Section 85. Subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery prohibited; reporting required; penalties.—

(3) Any employee of the department who, with malice aforethought, commits a battery to the person of an inmate shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any employee of the department who inflicts cruel or inhuman treatment by neglect or otherwise, and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the person of an inmate, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the *Public Employees Relations* ~~Career Service~~ Commission, shall constitute sufficient cause under s. 110.227 for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

Section 86. The Public Employees Relations Commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed under s. 447.207(8) and (9).

Section 87. Sections 110.301, 110.305, and 110.309, Florida Statutes, are hereby repealed.

Section 88. This act shall take effect July 1, 1986.

Amendment 2—In title, on page 1, line 24, after "division;" insert: amending ss. 110.124, 110.227, 112.044, 125.0104, 284.30, 284.31, 295.11, 295.14, 376.11, 376.307, 944.35, F.S.; repealing ss. 110.301, 110.305, 110.309, F.S.; abolishing the Career Service Commission and transferring

its powers, duties and functions to the Public Employees Relations Commission; directing agency heads to ensure employee familiarity with disciplinary and grievance procedures; revising procedures and requirements relating to suspension or dismissal in extraordinary circumstances; amending s. 447.207, F.S.; creating s. 447.208, F.S.; providing powers and duties of the Public Employees Relations Commission with respect to specified employment-related appeals; providing procedures and limitations;

Amendment 3—In title, on page 1, line 2, strike "Department of State" and insert: state government reorganization

On motion by Senator Vogt, by two-thirds vote HB 357 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Gersten	Langley	Scott
Childers, D.	Girardeau	Malchon	Stuart
Childers, W. D.	Grant	Margolis	Thomas
Crawford	Grizzle	Meek	Thurman
Crenshaw	Hill	Myers	Vogt
Deratany	Jennings	Neal	Weinstein
Dunn	Johnson	Peterson	
Frank	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

SB 263 was laid on the table.

CS for SB 758—A bill to be entitled An act relating to the Uniform Community Development District Act of 1980; amending s. 190.012, F.S.; providing that zoological parks are included within the term "parks"; providing an effective date.

—was read the second time by title. On motion by Senator Vogt, by two-thirds vote CS for SB 758 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Girardeau	Kiser	Scott
Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Malchon	Thomas
Crenshaw	Grizzle	Margolis	Thurman
Deratany	Hill	Meek	Vogt
Dunn	Jenne	Myers	Weinstein
Frank	Jennings	Peterson	
Gersten	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Neal

Consideration of CS for SB 656 and SB 396 was deferred.

The President presiding

CS for SB 665—A bill to be entitled An act relating to consumer protection; amending s. 501.021, F.S.; including lease and rental transactions in the definition of "home solicitation sale"; creating s. 501.022, F.S.; providing for permits for home solicitation sales, to be issued by the sheriff in each county; providing exemptions; providing for fees; providing for denial, suspension, or revocation of the permit; amending s. 501.046, F.S.; requiring affected businesses to ensure compliance on the part of their employees; amending s. 501.047, F.S.; proscribing certain practices with respect to home solicitation sales; amending s. 501.055, F.S.; providing penalties; providing an effective date.

—was read the second time by title.

Senator Malchon moved the following amendment which was adopted:

Amendment 1—On page 3, line 20, strike the period (.) and insert: ; and on line 21, insert:

b. Those sellers or their representatives that are currently regulated as to the sale of goods and services by chapers 470, 497, and 639, Florida Statutes.

Senator Scott moved the following amendment which was adopted:

Amendment 2—On page 2, line 19, after "exhibit" insert: *or a sale, lease, or rental that results from a request for specific goods or services by the purchaser or lessee*

On motion by Senator Malchon, by two-thirds vote CS for SB 665 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gersten	Kiser	Plummer
Beard	Girardeau	Malchon	Scott
Childers, D.	Gordon	Mann	Stuart
Childers, W. D.	Grant	Margolis	Thomas
Crenshaw	Grizzle	McPherson	Thurman
Deratany	Hill	Meek	Vogt
Dunn	Jenne	Myers	Weinstein
Frank	Jennings	Peterson	

Nays—2

Johnson	Langley

On motions by Senator Fox, by two-thirds vote CS for HB 1313 was withdrawn from the Committees on Judiciary-Civil, Health and Rehabilitative Services and Appropriations.

On motion by Senator Fox—

CS for HB 1313—A bill to be entitled An act relating to domestic relations; amending s. 61.001, F.S., providing legislative purpose; amending s. 61.021, F.S., relating to residence requirements; creating s. 61.046, F.S., providing definitions; amending s. 61.052, F.S., relating to dissolution of marriage; amending s. 61.08, F.S., relating to alimony; amending s. 61.09, F.S., relating to alimony and child support; amending s. 61.10, F.S., relating to adjudication of obligation to support spouse or minor child unconnected with dissolution; amending s. 61.13, F.S., relating to child support; providing for insurance payments; providing procedures for payment of support and required support items; amending s. 61.1301, F.S., relating to income deduction orders issued in conjunction with support orders or modification of support orders; creating s. 61.13015, F.S., providing for the enforcement of income deduction orders; creating s. 61.13017, F.S., requiring the honoring of income deductions under certain circumstances; amending s. 61.14, F.S., relating to modification of support, maintenance or alimony agreements or orders; amending s. 61.17, F.S., providing for the effect of certain orders or judgments; amending s. 61.181, F.S., relating to the central depository for receiving, recording, reporting, monitoring and disbursing alimony, support, maintenance and child support payments; creating s. 61.182, F.S., providing for special masters; creating s. 61.183, F.S., providing for liens on real and personal property; amending s. 28.241, F.S., providing an additional filing charge with respect to child support actions; amending s. 88.065, F.S., relating to the conditions of interstate rendition with respect to uniform reciprocal enforcement of support; amending s. 88.121, F.S., providing that the Department of Health and Rehabilitative Services shall represent the petitioner with respect to certain proceedings; amending s. 88.151, F.S., relating to costs and fees; amending s. 88.181, F.S., providing that the department shall prosecute certain cases; amending s. 88.191, F.S., relating to duties of courts and officals in certain states; amending s. 88.211, F.S., relating to the order of support; amending s. 88.251, F.S., providing reference to the central governmental depository with respect to duties of certain courts; amending s. 88.297, F.S., relating to appeals; amending s. 88.345, F.S., relating to representation; amending s. 88.351, F.S., relating to registration; amending s. 95.11, F.S., providing for the time period for the statute of limitation with respect to paternity; amending s. 409.2551, F.S., relating to legislative intent with respect to enforcement of support; amending s. 409.2554, F.S., providing definitions; amending s. 409.2561, F.S., relating to public assistance payments; amending s. 409.2564, F.S., relating to actions for support; amending s. 409.2567, F.S., providing that support and paternity determination services of the department shall be made available on behalf of all dependent children; creating s. 409.2568, F.S., providing for the continuation of support services for public assistance recipients whose benefits are terminated; amending s. 409.2572, F.S., relating to cooperation with respect to public assistance; amending

s. 409.2574, F.S., relating to income deductions; creating s. 409.2579, F.S., providing for information sharing between consumer reporting agencies and child support enforcement agencies; amending s. 409.2584, F.S., relating to interest on obligation due; amending s. 742.011, F.S., relating to determination of paternity proceedings; amending s. 742.021, F.S., relating to venue, process, and complaints; amending s. 742.031, F.S., relating to hearings; amending s. 742.10, F.S., relating to the establishment of paternity by other procedures; creating s. 742.12, F.S., providing for scientific testing to determine paternity; creating s. 742.15, F.S., providing for temporary support pending trial; directing the Supreme Court by rule to establish criteria to use in determining child support award amounts; amending section 6 of chapter 85-178, Laws of Florida, relating to child support enforcement demonstration projects; repealing s. 88.031(11), F.S., deleting the definition of the term "prosecuting attorney" with respect to the "Revised Uniform Reciprocal Enforcement of Support Act (1968)"; repealing s. 61.081, F.S., relating to income deduction orders in conjunction with an alimony order or an order for modification of an alimony order; repealing s. 409.245, F.S., relating to actions for support with respect to dependent children; repealing s. 409.2587, F.S., relating to uncollectible child support debts; repealing s. 742.041, F.S., relating to monthly contribution with respect to determination of paternity; providing for the application of repeals; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 670 and CS for SB 224 and read the second time by title.

Senators Fox and Dunn offered the following amendment which was moved by Senator Fox and adopted:

Amendment 1—On page 1, strike everything after the enacting clause and insert:

Section 1. Section 61.001, Florida Statutes, is amended to read:

61.001 Purpose of chapter.—

(1) This chapter shall be liberally construed and applied ~~to promote its purposes~~.

(2) Its purposes are:

(a) To preserve the integrity of marriage and to safeguard meaningful family relationships;

(b) To promote the amicable settlement of disputes that *arise* ~~have arisen~~ between parties to a marriage; and

(c) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage.

Section 2. Section 61.021, Florida Statutes, is amended to read:

61.021 Residence *requirements* ~~required~~.—To obtain a dissolution of marriage, *one of* the *parties to the marriage* ~~party filing the proceeding~~ must reside 6 months in the state before *the* filing *of* the petition~~, but this does not affect any suit filed before October 1, 1957~~.

Section 3. Section 61.046, Florida Statutes, is created to read:

61.046 Definitions.—As used in this chapter:

(1) "Custodial parent" means the parent with whom the child maintains his primary residence.

(2) "Department" means the Department of Health and Rehabilitative Services.

(3) "Depository" means the central governmental depository established pursuant to s. 61.181 to receive, record, report, disburse, monitor, and otherwise handle alimony and child support payments.

(4) "Income" means any form of payment to an individual, regardless of source, including, but not limited to: wages, salary, commissions and bonuses, compensation as an independent contractor, worker's compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trusts, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. Veterans Administration disability benefits and unemployment compensation, as defined in chapter 443, are excluded from this definition of income.

(5) "IV-D" means services provided pursuant to Title IV-D of the Social Security Act, 42 U.S.C., s. 1302.

(6) "Local officer" means an elected or appointed constitutional or charter government official including, but not limited to, the state attorney and clerk of the circuit court.

(7) "Noncustodial parent" means the parent with whom the child does not maintain his primary residence.

(8) "Obligee" means the person to whom support payments are made pursuant to an alimony or child support order.

(9) "Obligor" means a person responsible for making support payments pursuant to an alimony or child support order.

(10) "Payor" means an employer or former employer or any other person or agency providing or administering income to the obligor.

(11) "Shared parental responsibility" means a court-ordered relationship in which both parents retain full parental rights and responsibilities with respect to their child and in which both parents confer with each other so that major decisions affecting the welfare of the child will be determined jointly.

(12) "Sole parental responsibility" means a court-ordered relationship in which one parent makes decisions regarding the minor child.

Section 4. Section 61.052, Florida Statutes, is amended to read:

61.052 Dissolution of marriage.—

(1) No judgment of dissolution of marriage shall be granted unless one of the following facts appears, which shall be pleaded generally:

(a) The marriage is irretrievably broken.

(b) Mental incompetence of one of the parties. However, no dissolution shall be allowed unless the party alleged to be incompetent shall have been adjudged incompetent according to the provisions of s. 744.331 for a preceding period of at least 3 years. Notice of the proceeding for dissolution shall be served upon one of the nearest blood relatives or guardian of *the* ~~such~~ incompetent person, and *the* ~~such~~ relative or guardian shall be entitled to appear and to be heard upon the issues. If the incompetent party has a general guardian or a guardian of his person other than the party bringing the proceeding, the petition and summons shall be served upon the incompetent party and *the* ~~such~~ guardian and the guardian shall defend and protect the interests of the incompetent party. If the incompetent party has no general guardian or guardian of his person, the court shall appoint a guardian ad litem to defend and protect the interests of the incompetent party. However, in all dissolutions of marriage granted on the basis of incompetency, the court may require the petitioner to pay alimony pursuant to the provisions of s. 61.08.

(2) Based on the evidence at the hearing, which evidence need not be corroborated except to establish that the residence requirements of s. 61.021 are met, the court shall dispose of the petition for dissolution of marriage ~~as follows,~~ when the petition is based on the allegation that the marriage is irretrievably broken *as follows*:

(a) If there *is no minor child* ~~are no minor children~~ of the marriage and if the *responding party* ~~respondent~~ does not, by answer to the petition for dissolution, deny that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage if the court finds that the marriage is irretrievably broken.

(b) When there *is a minor child* ~~are minor children~~ of the marriage, or when the *responding party* ~~respondent~~ denies by answer to the petition for dissolution that the marriage is irretrievably broken, the court may:

1. Order either or both parties to consult with a marriage counselor, psychologist, psychiatrist, minister, priest, rabbi, or any other person deemed qualified by the court and acceptable to the party or parties ordered to seek consultation; or

2. Continue the proceedings for a reasonable length of time not to exceed 3 months, to enable the parties themselves to effect a reconciliation; or

3. Take such other action as may be in the best interest of the parties and the minor *child* ~~children~~ of the marriage.

If, at any time, the court finds that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage. If the court finds that the marriage is not irretrievably broken, it shall deny the petition for dissolution of marriage.

(3) During any period of continuance, the court may make appropriate orders for the support and alimony of the parties; the *primary residence,* custody, support, maintenance, and education of the minor *child* ~~children~~ of the marriage; attorney's fees; and the preservation of the property of the parties.

(4) A judgment of dissolution of marriage shall result in each spouse having the status of being single and unmarried. No judgment of dissolution of marriage renders the *child* ~~children~~ of *the* ~~such~~ marriage illegitimate.

Section 5. Subsection (4) of section 61.08, Florida Statutes, is amended to read:

61.08 Alimony.—

(4)(a) With respect to any order requiring the payment of alimony entered on or after January 1, 1985, unless the provisions of paragraph (c) *or paragraph (d)* apply, the court shall direct in *the* ~~such~~ order that the payments of alimony be made through the appropriate ~~central governmental~~ depository as provided in s. 61.181.

(b) With respect to any order requiring the payment of alimony entered before January 1, 1985, upon the subsequent appearance, on or after that date, of one or both parties before the court having jurisdiction for the purpose of modifying or enforcing *the* ~~such~~ order or in any other proceeding related to *the* ~~such~~ order, or upon the *application* ~~petition~~ of either party, unless the provisions of paragraph (c) *or paragraph (d)* apply, the court shall modify the terms of *the* ~~such~~ order as necessary to direct that payments of alimony be made through the appropriate ~~central governmental~~ depository as provided in s. 61.181.

(c) If there *is no minor child* ~~are no minor children~~, alimony payments need not be directed through the depository.

(d)1. If there *is a minor child* ~~are minor children~~ of the parties and both parties so request, the court may order that alimony payments need not be directed through the depository. In *this* ~~such~~ case, the order of support shall provide, or be deemed to provide, that either party may subsequently apply to the depository to *require that payments be made through the depository* ~~activate participation in the program~~. The court shall provide a copy of *the* ~~such~~ order to the ~~central~~ depository.

2. If the provisions of subparagraph 1. apply, either party may subsequently file with the depository *an* ~~a sworn~~ affidavit alleging default or arrearages in payment and stating that *the* ~~such~~ party wishes to initiate participation in the ~~central~~ depository program. *The* ~~Such~~ party shall provide copies of the affidavit to the court and the other party *or parties* . Fifteen days after receipt of the affidavit, the depository shall notify *all* ~~both~~ parties that future payments shall be directed to the depository.

3. In IV-D cases, the IV-D agency shall have the same rights as the obligee in requesting that payments be made through the depository.

Section 6. Section 61.09, Florida Statutes, is amended to read:

61.09 Alimony and child support unconnected with dissolution.—If a person having the ability to contribute to the maintenance of his ~~or her~~ spouse and support of his ~~or her~~ minor *child* ~~children~~ fails to do so, the spouse who is not receiving support or who has custody of the *child or with whom the child has his primary residence* ~~children~~ may *apply to* ~~petition~~ the court for alimony and for support for *the child* ~~minor children~~ without *seeking* ~~petitioning for~~ dissolution of marriage, and the court shall enter *an* ~~such~~ order as it deems just and proper.

Section 7. Section 61.10, Florida Statutes, is amended to read:

61.10 Adjudication of obligation to support spouse or minor *child* ~~children~~ unconnected with dissolution; child custody, *child's primary residence,* and visitation.—Except when relief is afforded by some other pending civil action or proceeding, a spouse residing in this state apart from his spouse and minor *child* ~~children~~, whether or not such separation is through his fault, may obtain an adjudication of his obligation to maintain his spouse and minor *child* ~~children~~, if any. The court shall adjudicate his financial obligations to *the* ~~such~~ spouse *and child, shall establish* ~~or children, or both, and fix~~ the *child's primary residence, and shall determine the* custody and visitation rights of the parties ~~and enforce them~~. Such an action does not preclude either party from maintaining any other proceeding under this chapter for other or additional relief at any time.

Section 8. Section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(1)(a) In a proceeding for dissolution of marriage, the court may at any time order either or both parents *who owe* ~~owing~~ a duty of support to a child ~~of the marriage~~ to pay ~~such~~ support as from the circumstances of the parties and the nature of the case is equitable. The court initially entering an order requiring one or both parents to make child support payments shall have continuing jurisdiction after the entry of *the* ~~such~~ initial order to modify the amount *and terms and conditions* of the child support payments~~, or the terms thereof,~~ when *the modification* ~~such~~ is found ~~to be~~ necessary by the court *in* ~~for~~ the best interests of the child ~~or children~~, when the child *reaches majority* ~~or any one of the children has reached the age of 18 years~~, or when ~~such is found to be necessary by the court because~~ there *is* ~~has been~~ a substantial change in the circumstances of the parties. The court initially entering a child support order shall also have continuing jurisdiction ~~after the entry of such order~~ to require the *obligee* ~~person or persons awarded custody of the child or children~~ to ~~make a~~ report to the court on terms prescribed by the court *regarding* ~~as to~~ the ~~expenditure or other~~ disposition of the child support payments.

(b) Each order for child support shall contain a provision for health insurance for the minor child when the insurance is reasonably available. Insurance is reasonably available if the obligor has access at a reasonable rate to group insurance.

(c)~~(b)~~ To the extent necessary to protect an award of child support, the court may order *the obligor* ~~any party who is ordered to pay child support~~ to purchase or maintain a life insurance policy or a bond, or to otherwise secure *the* ~~such~~ child support award with any other assets which may be suitable for that purpose.

(d)~~(c)~~*1. Unless the provisions of subparagraph 3. apply, all child support orders entered on or after January 1, 1985, shall direct that the payments of child support be made as provided in s. 61.181 through the depository in the county where the court is located.* ~~With respect to any order requiring the payment of child support entered on or after January 1, 1985, unless the provisions of subparagraph 3. apply, the court shall direct in such order that the payments of child support be made through the appropriate central governmental depository as provided in s. 61.181.~~

2. Unless the provisions of subparagraph 3. apply, all child support orders entered before January 1, 1985, shall be modified by the court upon the subsequent appearance of either or both parents to modify or enforce the order or in any related proceeding to direct that payments of child support shall be made through the depository in the county where the court is located. ~~With respect to any order requiring the payment of child support entered before January 1, 1985, upon the subsequent appearance, on or after that date, of one or both parents before the court having jurisdiction for the purpose of modifying or enforcing such order or in any other proceeding related to such order, or upon the petition of either party, unless the provisions of subparagraph 3. apply, the court shall modify the terms of such order as necessary to direct that payments of child support be made through the appropriate central governmental depository as provided in s. 61.181.~~

3. ~~Support payments need not be directed through the depository~~ If both parties ~~so~~ request, and the court finds that *it is* ~~to be~~ in the best interest of the child, *support payments need not be directed through the depository.* ~~In such case,~~ The order of support shall provide, or shall be deemed to provide, that either party may subsequently apply to the depository to *require direction of the payments through* ~~activate participation in~~ the depository ~~program~~. The court shall provide a copy of *the* ~~such~~ order to the ~~central~~ depository.

4. If the parties *elect not to require that support payments be made through the depository, any* ~~have opted out of the governmental depository provisions pursuant to subparagraph 3., either~~ party may subsequently file *an* ~~with the depository a sworn~~ affidavit *with the depository* alleging *a* default ~~or arrearages~~ in payment *of child support* and stating that *the* ~~such~~ party wishes to *require that payments be made through the* ~~initiate participation in the governmental~~ depository ~~program~~. *The* ~~Such~~ party shall provide copies of the affidavit to the court and to *each* ~~the~~ other party. Fifteen days after receipt of *the* ~~such~~ affidavit, the depository shall notify both parties that future payments shall be *paid through* ~~directed to~~ the depository.

5. In IV-D cases, the IV-D agency shall have the same rights as the obligee in requesting that payments be made through the depository.

(2)(a) ~~In any proceeding under this chapter,~~ The court shall have jurisdiction to determine custody, notwithstanding that the child *is* ~~or children are~~ not physically present *in* ~~within~~ this state at the time of filing any proceeding under this chapter, if it appears to the court that the child *was* ~~or children were~~ removed from this state for the primary purpose of removing the child ~~or children~~ from the jurisdiction of the court in an attempt to avoid a determination *or modification* of custody.

(b)1. The court shall determine all matters relating to custody of each minor child of the parties ~~as a part of any proceeding under this chapter~~ in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction Act. It is the public policy of this state to assure *that* each minor child *has* frequent and continuing contact with both parents after the parents *separate* ~~have separated~~ or *the marriage of the parties is* dissolved ~~their marriage~~ and to encourage parents to share the rights and responsibilities of childrearing. *After* ~~Upon~~ considering all relevant *facts* ~~factors~~, the father of the child shall be given the same consideration as the mother in determining *the primary residence of a child, irrespective of* ~~custody without regard to~~ the age of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless *the court* ~~it~~ finds that shared parental responsibility would be detrimental to the child. The court shall consider evidence of spouse abuse as evidence of detriment to the child. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility. If the court finds that spouse abuse has occurred between the parties, it may award sole parental responsibility to the abused spouse and make such arrangements for visitation as will best protect the child and abused spouse from further harm.

a. ~~"Shared parental responsibility" means that both parents retain full parental rights and responsibilities with respect to their child and requires both parents to confer so that major decisions affecting the welfare of the child will be determined jointly.~~ In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those *responsibilities* ~~aspects~~ between the parties based on the best interests of the child. ~~When it appears to the court to be in the best interests of the child, the court may order or the parties may agree how any such responsibility will be divided. Such~~ Areas of responsibility may include primary ~~physical~~ residence, education, medical and dental care, and any other responsibilities which the court finds unique to a particular family ~~and/or in the best interests of the child~~.

b. *The court shall order* "sole parental responsibility, *with or without visitation rights, to the other parent when it is in the best interests of*" ~~means that responsibility for~~ the minor child ~~is given to one parent by the court, with or without rights of visitation to the other parent~~.

c. The court may award the grandparents visitation rights of a minor child if it is ~~deemed by the court to be~~ in the child's best interest. Grandparents shall have legal standing to seek judicial enforcement of such an award. Nothing in this section shall ~~be construed to~~ require that grandparents be made parties or given notice of dissolution pleadings or proceedings, nor shall ~~such~~ grandparents have legal standing as "contestants" as defined in s. 61.1306. No court shall order that a child be kept within the state or jurisdiction of the court solely for the purpose of permitting visitation by the grandparents.

3. Access to records and information pertaining to a minor child, including but not limited to medical, dental, and school records, shall not be denied to a parent because such parent is not the child's primary residential parent.

(3) For purposes of shared parental responsibility and primary ~~physical~~ residence, the best interests of the child shall *include an* ~~be determined by the court's consideration and~~ evaluation of all factors affecting the ~~best~~ welfare and interests of the child, including, but not limited to:

(a) The parent who is more likely to allow the child frequent and continuing contact with the nonresidential parent.

(b) The love, affection, and other emotional ties existing between the parents and the child.

(c) The capacity and disposition of the parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home.

(f) The moral fitness of the parents.

(g) The mental and physical health of the parents.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(j) Any other *fact* ~~factor~~ considered by the court to be relevant ~~to a particular child custody dispute~~.

(4)(a) When a noncustodial parent who is ordered to pay child support or alimony and who is awarded visitation rights fails to pay child support or alimony, the custodial parent shall not refuse to honor the noncustodial parent's visitation rights.

(b) When a custodial parent refuses to honor a noncustodial parent's visitation rights, the noncustodial parent shall not fail to pay any ordered child support or alimony.

(c) When a custodial parent refuses to honor a noncustodial parent's visitation rights without proper cause, the court may:

1. After calculating the amount of visitation improperly denied, award the noncustodial parent a sufficient amount of extra visitation to compensate the noncustodial parent, which visitation shall be taken as expeditiously as possible in a manner which does not interfere with the best interests of the child; or

2. Award the custody or primary residence to the noncustodial parent, upon the request of the noncustodial parent, if the award is in the best interests of the child.

(d) A person who violates this subsection may be punished by contempt of court or other remedies as the court deems appropriate.

(5)~~(4)~~ *The court may make specific orders* ~~In any proceeding under this chapter, the court, at any stage of the proceeding and after final judgment, may make such orders about what security is to be given~~ for the care, custody, and support of the minor *child* ~~children of the marriage~~ as from the circumstances of the parties and the nature of the case is equitable. *An award of shared parental responsibility of a minor child does not preclude the court from entering an order for child support of the child.*

~~(5) The provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act.~~

Section 9. Section 61.1301, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 61.1301, F.S., for present text.)

61.1301 Income deduction order; issuance in conjunction with an alimony or child support order or modification.—

(1) Upon the entry of an order establishing, enforcing, or modifying an alimony or a child support obligation, the court shall enter a separate order for income deduction if one has not been entered. Copies of the orders shall be served on the obligee and obligor. If the support order directs that support payments be made through the depository, the court shall provide a copy of the support order to the depository. If the obligee is a IV-D applicant, the court shall furnish copies of the support order and the income deduction order to the IV-D agency.

(2) The income deduction order shall:

(a) Direct a payor to deduct from all income due and payable to an obligor the amount required by the court to meet the obligor's support obligation;

(b) State the amount of arrearage owed, if any, and direct a payor to withhold an additional 20 percent of the periodic amount specified in the support order, until full payment is made of any arrearage; and

(c) Direct a payor not to deduct in excess of the amounts allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

(3) The income deduction order is effective immediately.

(4) The income deduction order shall be effective so long as the order of support upon which it is based is effective or until further order of the court.

(5) The court shall furnish to the obligor a statement of his rights, remedies, and duties in regard to the income deduction order. The statement shall state:

(a) All fees or interest which shall be imposed.

(b) The total amount of income to be deducted for each pay period until the arrearage, if any, is paid in full and state the total amount of income to be deducted for each pay period thereafter. The amounts deducted may not be in excess of that allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

(c) That the income deduction order applies to current and subsequent payors and periods of employment.

(d) That a copy of the income deduction order will be served on the obligor's payor or payors, unless the obligor applies to the court to contest enforcement of the order. The application shall be filed within 15 days after the date the income deduction order is entered.

(e) That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of support owed pursuant to a support order, the arrearages, or the identity of the obligor.

(f) That the obligor is required to notify the obligee and, when the obligee is receiving IV-D services, the IV-D agency, within 7 days of changes in the obligor's address and payors and the addresses of his payors.

(6) At any time, any party, including the IV-D agency, may apply to the court to:

(a) Modify, suspend, or terminate the order for income deduction because of a modification, suspension, or termination of the underlying order for support; or

(b) Modify the amount of income deducted when the arrearage has been paid.

Section 10. Section 61.13015, Florida Statutes, is created to read:

61.13015 Enforcement of income deduction orders.—

(1) The obligee or his agent shall serve an income deduction order and the notice to payor on the obligor's payor unless the obligor has applied for a hearing to contest the enforcement of the income deduction order pursuant to subsection (3).

(2)(a) Service by or upon any person who is a party to a proceeding under this section shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

(b) Service upon an obligor's payor or successor payor under this section shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

(3)(a) The obligor, within 15 days after having an income deduction order entered against him, may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of support owed pursuant to a support order, the amount of arrearage of support, or the identity of the obligor. The obligor shall send a copy of the pleading to the obligee and, if the obligee is receiving IV-D services, to the IV-D agency. The timely filing of the pleading shall stay the service of an income deduction order on all payors of the obligor until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper. The payment of delinquent support by an obligor upon entry of an income deduction order shall not preclude service of the income deduction order on the obligor's payor.

(b) When an obligor timely requests a hearing to contest enforcement of an income deduction order, the court, after due notice to all parties and the IV-D agency if the obligee is receiving IV-D services, shall hear the matter within 20 days after the application is filed. The court shall enter an order resolving the matter within 10 days after the hearing. A copy of this order shall be served on the parties and the IV-D agency if the obligee is receiving IV-D services. If the court determines that service of an income deduction order is proper, it shall specify the date the income deduction order must be served on the obligor's payor.

(4) When a court determines that an income deduction order is proper pursuant to subsection (3), the obligee or his agent shall cause a copy of the income deduction order and a notice to payor to be served on the obligor's payors. A copy of the notice to the payor shall also be furnished to the obligor.

(5) The notice to payor shall contain only information necessary for the payor to comply with the income deduction order. The notice shall:

(a) Require the payor to deduct from the obligor's income the amount specified in the income deduction order and to pay that amount to the obligee or to the depository, as appropriate. The amount actually deducted plus all administrative charges shall not be in excess of the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b);

(b) Instruct the payor to implement the income deduction order no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on the payor;

(c) Instruct the payor to forward, within 2 days after each payment date, to the obligee or the depository the amount deducted from the obligor's income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of the obligee;

(d) Specify that if a payor fails to deduct the proper amount from the obligor's income, the payor is liable for the amount the payor should have deducted, plus costs, interest, and reasonable attorney's fees;

(e) Provide that the payor may collect up to $5 against the obligor's income to reimburse the payor for administrative costs for the first income deduction and up to $1 for each deduction thereafter;

(f) State that the income deduction order and the notice to payor are binding on the payor until further notice by the obligee, IV-D agency, or the court or until the payor no longer provides income to the obligor;

(g) Instruct the payor that, when he no longer provides income to the obligor, he shall notify the obligee and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known, and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of to the obligee. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order;

(h) State that the payor shall not discharge, refuse to employ, or take disciplinary action against an obligor because of an income deduction order and that a violation of this provision subjects the payor to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order, if any support is owing. If no support is owing, the penalty shall be paid to the obligor;

(i) State that an obligor may bring a civil action in the courts of this state against a payor who refuses to employ, discharges, or otherwise disciplines an obligor because of an income deduction order. The obligor is entitled to reinstatement and all wages and benefits lost plus reasonable attorneys' fees and costs incurred;

(j) Inform the payor that the income deduction order has priority over all other legal processes under state law pertaining to the same income and that payment, as required by the income deduction order, is a complete defense by the payor against any claims of the obligor or his creditors as to the sum paid;

(k) Inform the payor that, when he receives income deduction orders requiring that the income of two or more obligors be deducted and sent to the same depository, he may combine the amounts that are to be paid to the depository in a single payment as long as he identifies that portion of the payment attributable to each obligor; and

(l) Inform the payor that if the payor receives more than one income deduction order against the same obligor, he shall contact the court for further instructions. Upon being so contacted, the court shall allocate amounts available for income deduction giving priority to current child support obligations up to the limits imposed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b).

(6) At any time an income deduction order is being enforced, the obligor may apply to the court for a hearing to contest the continued enforcement of the income deduction order on the same grounds set out in subsection (3), with a copy to the obligee and, in IV-D cases, to the IV-D agency. The application does not affect the continued enforcement of the income deduction order until the court enters an order granting relief to the obligor. The obligee or the IV-D agency is released from liability for improper receipt of moneys pursuant to an income deduction order upon return to the appropriate party of any moneys received.

(7) An obligee, or his agent, shall enforce income deduction orders against an obligor's successor payor who is located in this state in the same manner prescribed in this section for the enforcement of an income deduction order against a payor.

(8)(a) When an income deduction order is to be enforced against a payor located outside the state, the obligee who is receiving IV-D services or his agent shall promptly request the agency responsible for income deduction in the other state to enforce the income deduction order. The request shall contain all information necessary to enforce the income deduction order, including the amount to be periodically deducted, a copy of the support order, and a statement of arrearages, if applicable.

(b) When the IV-D agency is requested by the agency responsible for income deduction in another state to enforce an income deduction order against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency in the other state, the IV-D agency shall act promptly pursuant to the applicable provisions of this section.

(c) When an obligor who is subject to an income deduction order enforced against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency responsible for income deduction in another state terminates his relationship with his payor, the IV-D agency shall notify the agency in the other state and provide it with the name and address of the obligor and the address of any new payor of the obligor, if known.

(d)1. The procedural rules and laws of this state govern the procedural aspects of income deduction orders whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction order in this state.

2. The substantive laws of the initiating state govern the substantive aspects of income deduction orders whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction order in this state.

(9) Certified copies of payment records maintained by a depository shall, without further proof, be admitted into evidence in any legal proceeding in this state.

(10)(a) A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order, if any support is owing. If no support is owing, the penalty shall be paid to the obligor.

(b) An employee may bring a civil action in the courts of this state against an employer who refuses to employ, discharges, or otherwise disciplines an employee because of an income deduction order. The employee is entitled to reinstatement and all wages and benefits lost plus reasonable attorneys' fees and costs incurred.

(11) When a payor no longer provides income to an obligor, he shall notify the obligee, and if the obligee is a IV-D applicant, the IV-D agency and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known. A payor who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for a subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order.

Section 11. Section 61.1352, Florida Statutes, is created to read:

61.1352 Certificates of nonsupport; claims of lien against real, personal, and intangible property.—

(1)(a) An obligee or his agent may request an administrator of a depository to issue a certificate of nonsupport when:

1. There exists a court order for support directing that payment be made through the depository; and

2. The obligor has been delinquent for 30 days or more in an amount equal to, or in excess of, the amount of support payable for 1 month.

(b) The administrator shall issue a certificate of nonsupport upon certification that an arrearage exists and that the arrearage meets the criteria established in this section.

(2) The certificate of nonsupport shall contain:

(a) Obligor's name and address;

(b) Obligee's name and address;

(c) Amount of arrearage and the period of time the amount has been delinquent;

(d) Location of depository;

(e) Signature of administrator of the depository; and

(f) Date of issuance of the certificate of nonsupport.

(3)(a) An obligee or his agent may record a claim of lien against any real, personal, or intangible property of an obligor located in this state for the amount of arrearage stated in a certificate of nonsupport. A copy of the certificate of nonsupport shall be recorded with the claim of lien.

(b) A claim of lien against any real property of the obligor shall be effective when recorded in the official records of the county in which the property is located.

(c) A claim of lien against any personal or intangible property of the obligor shall be effective when recorded in the official records of the county in which the property is located. The lien shall be deemed perfected for purposes of priority upon recording; however, it will not be effective against the obligor's secured creditors or transferees for a valuable consideration unless the property was seized pursuant to attachment, levy, or sequestration.

(d) An obligee or his agent may record claims of lien against real, personal, or intangible property in each county in which he believes the obligor may have, or may acquire, property.

(e) An obligee or his agent may record subsequent claims of lien showing accumulated arrearage. The total amount of arrearage shall determine the total amount of the lien.

(4) When an obligee or his agent records a claim of lien, he shall forward a copy to the obligor by certified mail, return receipt requested.

(5) An obligor may, at any time after receiving notice of a claim of lien, apply to the court to modify or terminate the claim of lien. An obligor may contest a claim of lien only on the ground of a mistake of fact which includes an error in the amount of arrearage accrued or the identity of the obligor. When an obligor pays all or a part of the arrearage, the obligee or his agent shall provide to the obligor a satisfaction of the claim of lien or a partial satisfaction of the claim of lien.

(6) No lien provided by this section shall continue for a period longer than 1 year after the claim of lien has been recorded, unless within that time an action to enforce and foreclose the lien is commenced in a court of competent jurisdiction. The continuation of a lien against real property effected by the commencement of an action to enforce and foreclose the lien shall not be good against creditors or subsequent purchasers for a valuable consideration and without notice, unless a notice of lis pendens is recorded.

(7) An obligee who brings an action to enforce and foreclose a lien under this section and who prevails in the action, shall be entitled to a judgment of foreclosure for the unpaid amount, plus costs and reasonable attorney's fees.

(8) In any action to enforce and foreclose a lien created under this section, an obligee, upon appropriate motion and without bond, shall be entitled to an attachment of the obligor's property pursuant to the provisions of chapter 76. A certificate of nonsupport issued under this section is sufficient grounds for the issuance of the attachment.

(9) The court may order the sequestration of any property subject to a lien under this section without bond.

(10) The provisions of this section are cumulative with all other remedies including contempt.

Section 12. Section 61.1354, Florida Statutes, is created to read:

61.1354 Sharing of information between consumer reporting agencies and the IV-D agency.—

(1) Upon receipt of a request from a consumer reporting agency, the IV-D agency shall make available information relating to the amount of overdue support owed by an obligor when the amount exceeds $500.

(2) The IV-D agency shall give the obligor prior notice of the request from the consumer reporting agency and of the IV-D agency's intent to release the information relating to the amount of overdue support owed by the obligor. The obligor shall be informed of his right to request a hearing with the IV-D agency to contest the accuracy of the information.

Section 13. Section 61.14, Florida Statutes, is amended to read:

61.14 Modification of support, maintenance, or alimony agreements or *orders* ~~judgments~~.—

(1) When the parties *enter* ~~have entered~~ into~~, or hereafter enter into,~~ an agreement for payments for, or instead of, support, maintenance, or alimony, whether in connection with a proceeding for dissolution or separate maintenance or with any voluntary property settlement, or when a party is required by court order to make any payments, and the circumstances or the financial ability of either party *changes* ~~has changed~~ or the child ~~or children~~ who *is a beneficiary* ~~are beneficiaries~~ of an agreement or court order as described herein *reaches* ~~have reached~~ *majority after* ~~the age of 18 years since~~ the execution of *the* ~~such~~ agreement or the rendition of the order, either party may apply to the circuit court of the circuit in which the parties, or either of them, resided at the date of the execution of the agreement or reside at the date of the application, or in which the agreement was executed or in which the order was rendered, for *an order* ~~a judgment~~ decreasing or increasing the amount of support, maintenance, or alimony, and the court has jurisdiction to make orders as equity requires, with due regard to the changed circumstances or the financial ability of the parties or the child ~~or children~~, decreasing, increasing, or confirming the amount of separate support, maintenance, or alimony provided for in the agreement or order.

(2) When an order *or agreement* is modified pursuant to subsection (1), the party having an obligation to pay shall pay only the amount of support, maintenance, or alimony directed in the new order, and the agreement or earlier order is modified accordingly. No person *may* ~~shall~~ commence~~, or cause to be commenced, as party or attorney or agent or otherwise, in behalf of either party in any court,~~ an action *for modification of a support, maintenance, or alimony agreement or order, except* ~~or proceeding otherwise than~~ as herein provided. *No,* ~~nor shall any~~ court *has* ~~have~~ jurisdiction to entertain any action ~~or proceeding otherwise than as herein provided~~ to enforce the recovery of separate support, maintenance, or alimony *other than as herein provided* ~~otherwise than pursuant to the order~~.

(3) This section is declaratory of existing public policy and of *the* laws of this state ~~which are hereby confirmed in accordance with the provisions hereof. It is the duty of the circuit court to construe liberally the provisions hereof to effect the purposes hereof~~.

(4) If a party applies for a reduction of alimony or child support and the circumstances justify the reduction, the court may make the reduction of alimony or child support regardless of whether or not the party applying for it has fully paid the accrued obligations to the other party at the time of the application or at the time of the order of modification.

Section 14. Subsection (3) is added to section 61.17, Florida Statutes, to read:

61.17 Alimony and child support; additional method for enforcing orders and judgments; costs, expenses.—

(3) The entry of a judgment for arrearages for child support, alimony, or attorney's fees and costs does not preclude a subsequent contempt proceeding or certification of a IV-D case for intercept, by the United States Internal Revenue Service, for failure of an obligor to pay the child support, alimony, attorney's fees, or costs for which the judgment was entered.

Section 15. Section 61.181, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 61.181, F.S., for present text.)

61.181 Local support enforcement and depository services; contracting with local officers; standards for local officers; depository fees; department to establish rules.—

(1)(a) The department, or its contractual representative, shall perform or cause to be performed, all local support enforcement services including depository services required under the state IV-D plan.

(b) The department may contract with a local officer to perform support enforcement services which shall include all local depository services for alimony or child support payments. When the department contracts for support enforcement services, the local officer shall perform, or cause to be performed, all local support enforcement services, including depository services, required under the state IV-D plan and shall require all persons not receiving public assistance who request support enforcement services to apply for IV-D services.

(c) On or before July 15, 1986, the department shall provide notice in the Florida Administrative Weekly stating the availability of applications and application materials for local officers interested in contracting with the department to provide local support enforcement services under the state IV-D plan.

(d) On or before July 15, 1986, the department shall adopt emergency rules which set forth procedures by which local officers may apply to the department to provide support enforcement services.

(e) On or before August 1, 1986, the department upon request shall provide an application and application materials to the local officer.

(f) A local officer who is interested in providing support enforcement services shall submit an application to the department on or before August 15, 1986. The department shall evaluate each application by the following standards to determine if the applicant is eligible to provide support enforcement services:

1. The applicant's ability to provide all support enforcement services required under the state IV-D plan;

2. The applicant's ability to provide necessary data processing including interfacing with the state child support enforcement management information system;

3. The applicant's ability to provide data in a timely manner so that the department may complete its federal reporting requirements on time;

4. The applicant's ability to provide services in a more cost-efficient manner than those provided by the department. The department may consider for purposes of this comparison start-up costs for the local officer for the contracted services and phase out costs of existing programs if the department will incur costs for either; and

5. The applicant's ability to comply with all applicable federal and state laws, rules, and regulations.

6. The applicant's fiscal responsibility for operating the program.

(g) An applicant who currently uses the state child support enforcement management information system shall be deemed to meet the standards in subparagraphs 2. and 3. of paragraph (f).

(h) The department shall notify an applicant of its decision in writing within 45 days after the receipt of the application. The notice shall include the reasons for the department's decision to approve or disapprove the application. Disapproval of an application shall be considered final agency action subject to chapter 120.

(i) A local officer who provides support enforcement services under the state IV-D plan shall receive funding at the applicable IV-D funding rate.

(j) When a local officer contracts to perform support enforcement services under the state IV-D plan, the department shall, until October 1, 1987, be responsible for the payment of matching funds necessary to obtain the IV-D reimbursement and shall be entitled to receive federal incentive payments resulting from the operation of the support enforcement services under the state IV-D plan. Commencing October 1, 1987, the county government in the county in which the services are being provided by the local officer shall be responsible for the payment of the matching funds necessary to obtain the IV-D reimbursement and the local officer shall be entitled to the federal incentive payments provided the payments are utilized in the child support enforcement program in accordance with the state IV-D plan. This paragraph does not apply if the local officer is a state attorney who is providing full IV-D services as of July 1, 1986, in which case the department shall be responsible for the payment of matching funds necessary to obtain the IV-D reimbursement and the state shall be entitled to receive the federal incentive payments.

(k) When the department contracts with a local officer to provide support enforcement services under the state IV-D plan, the department's authorized positions for these services shall not be staffed. Funds appropriated for these positions including expenses shall be used to reimburse the local officer for the support enforcement services provided. If a contract with a local officer is canceled, the department's authorized positions may be immediately staffed to provide the support enforcement services previously provided by the local officer.

(l) If in the determination of the department, a local officer is in substantial default of the local officer's contract with the department, the department shall notify the local officer in writing providing specific detail as to the default of the contract and require corrective action to be taken within 30 days. If after 30 days, corrective action has not been taken to the satisfaction of the department, the department shall terminate the contract with the local officer. Final determination of a substantial default is final agency action subject to chapter 120.

(m) If a local officer is in substantial default of the local officer's contract with the department and the default subjects the state to sanctions by the Federal Government, the local officer shall from local funds reimburse the state for that portion of the sanctions which is the direct result of the local officer's failure to perform the requirements of the contract. If more than one local officer has contributed, through contract defaults, to imposition by the Federal Government of fiscal sanctions, the responsible local officers shall from local funds reimburse the state on a pro rata basis for the sanctions imposed. The provisions of this paragraph do not apply if the local officer is a state attorney.

(n) Nothing in this subsection requires the department to contract with a local officer who is found by the department to be eligible to provide support enforcement services.

(o) Nothing in this subsection shall limit the department from soliciting applications for the provision of local support enforcement services and contracting with a local officer for the provision of local support enforcement services after October 1, 1986.

(2)(a) Until January 1, 1987, the office of the clerk of the court shall operate a depository unless the depository is otherwise created by special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform the depository functions.

(b) After January 1, 1987, the department, or its contractual representative, shall perform all local depository services for alimony or child support payments.

(c) A local officer may apply to the department to continue to perform all local depository services for alimony or child support payments without applying to perform support enforcement services.

(d) The department may contract with a local officer to perform only depository services. When the department contracts for depository services, the local officer shall perform all local depository services for alimony or child support payments.

(e) On or before August 1, 1986, the department shall provide notice in the Florida Administrative Weekly stating the availability of applications and application materials for local officers interested in contracting with the department to provide depository services for alimony and child support payments.

(f) On or before August 1, 1986, the department shall adopt emergency rules which set forth procedures by which local officers may apply to the department to provide depository services.

(g) On or before August 15, 1986, the department upon request shall provide an application and application materials to the local officer.

(h) A local officer who is interested in providing depository services shall submit an application to the department on or before September 1, 1986. The department shall evaluate each application by the following standards to determine if the applicant is eligible to provide depository services:

1. The applicant's ability to provide all depository services for alimony or child support payments;

2. The applicant's ability to provide necessary data processing including interfacing with the state child support enforcement management information system;

3. The applicant's ability to provide data in a timely manner so that the department may complete its federal reporting requirements on time;

4. The applicant's ability to provide services more cost efficient than those provided by the department. The department may consider for purposes of this comparison start up costs for the local officer; and

5. The applicant's ability to comply with all applicable federal and state laws, rules, and regulations.

6. The applicant's fiscal responsibility for operating the program.

(i) An applicant who currently uses the state child support enforcement management information system shall be deemed to meet the standards in subparagraphs 2. and 3. of paragraph (h).

(j) The department shall notify an applicant of its decision in writing within 30 days after the receipt of the application. The notice shall include the reasons for the department's decision to approve or disapprove the application. Disapproval of an application shall be considered final action subject to chapter 120.

(k) A local officer who provides depository services shall receive funding at the applicable IV-D funding rate for allowable services under Title IV-D.

(l) When a local officer contracts to perform depository services under the state IV-D plan, the department shall, until October 1, 1987, be responsible for the payment of matching funds necessary to obtain the IV-D reimbursement and shall be entitled to receive federal incentive payments resulting from the operation of the depository services under the state IV-D plan. Commencing October 1, 1987, the county government in the county in which the services are being provided by the local officer shall be responsible for the payment of the matching funds necessary to obtain the IV-D reimbursement and the local officer shall be entitled to the federal incentive payments provided the payments are utilized for the depository in accordance with the state IV-D plan. This paragraph does not apply if the local officer is a state attorney who is providing full IV-D services as of July 1, 1986, in which case the department shall be responsible for the payment of matching funds necessary to obtain the IV-D reimbursement and the state shall be entitled to receive the federal incentive payments.

(m) If, in the determination of the department, a local officer is in substantial default of the local officer's contract with the department, the department shall notify the local officer in writing providing specific detail as to the default of the contract and require corrective action to be taken within 30 days. If after 30 days, corrective action has not been taken to the satisfaction of the department, the department shall terminate the contract with the local officer. Final determination of a substantial default is final agency action subject to chapter 120.

(n) If a local officer is in substantial default of the local officer's contract with the department and the default subjects the state to sanctions by the Federal Government, the local officer shall from local funds reimburse the state for that portion of the sanctions which is the direct result of the local officer's failure to perform the requirements of the contract. If more than one local officer has contributed, through default of contracts, to imposition by the Federal Government of fiscal sanctions, the responsible local officers shall from local funds reimburse the state on a pro rata basis for the sanctions imposed. The provisions of this paragraph do not apply if the local officer is a state attorney.

(o) Nothing in this subsection requires the department to contract with a local officer who is found by the department to be eligible to provide depository services.

(p) Nothing in this subsection shall limit the department from soliciting applications for the provision of depository services and contracting with a local officer for the provision of depository services after January 1, 1987.

(3)(a) The depository shall impose and collect a fee for receiving, recording, reporting, disbursing, monitoring, or handling support payments as required under this section, which fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case where the fixed fee results in a charge to any party of an amount greater than 3 percent of the support payments a party is obligated to pay, except that no fee shall be less than $1 nor more than $10. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

(b) The depository shall collect and distribute all alimony and child support payments paid into the depository to the appropriate parties. The depository may distribute nonpublic assistance IV-D payments, excluding payments to obligees who previously received public assistance and on whose behalf payments are still owed to the department, locally if the depository is part of the statewide, federally approved support enforcement information system and is reporting to the department the information required by the Federal Government. Until the federally approved support enforcement information system is installed, the depository may distribute payments directly to the obligee in such cases, if the depository can fulfill federal reporting requirements to the department. Any IV-D payments distributed by the depository to the department must be distributed by the depository within 2 working days. As part of the collection and distribution functions, the depository shall maintain records containing:

1. The obligor's name, address, social security number, place of employment, and any other sources of income;

2. The obligee's name, address, and social security number;

3. The amount of support due as provided in the court order;

4. The schedule of payment as provided in the court order;

5. The actual amount of each support payment received, the date of receipt, and the amount disbursed and the recipient of the disbursement;

6. The unpaid balance of any support arrearage due as provided in the court; and

7. Other records as necessary to comply with federal reporting requirements.

(c) The depository shall provide to the local IV-D agency at least weekly a listing of IV-D accounts which identifies all delinquent accounts, the period of delinquency, and total amount of delinquency. The listing shall be in alphabetical order by name of obligor, shall include the obligee's name and case number, and shall be provided at no cost to the local IV-D agency.

(d) The depository shall accept a support payment tendered in the form of cash, a certified check, or a check drawn on the account of a licensed business. Notwithstanding the provisions of s. 28.243, the administrator of the depository shall not be personally liable if the check tendered by the payor or obligor is not paid by the bank.

(e) A nonpublic assistance support payment due to an obligee shall, if full and accurate reporting data are available, be disbursed by the depository, or by the department when a payment is forwarded to it by the depository, to the obligee within 5 working days after the receipt by the depository or by the department of the support payment by the obligor or payor unless the payment was in the form of a check and the depository or department has reason to believe the check will not be paid when presented to the bank.

(4) Parties using the depository for support payments shall inform the depository of changes in their names or addresses. An obligor shall, additionally, notify the depository of all changes in employment or sources of income, including the payor's name and address, and changes in amounts of income received. Notification of all changes shall be made in writing to the depository within 7 days after a change.

(5) The department shall adopt rules and procedures to implement this section.

Section 16. The Supreme Court shall provide to the department on or before September 1, 1986, preliminary data to demonstrate that the courts are making substantial progress towards processing 90 percent of child support cases within 3 months, 98 percent of child support cases within 6 months, and 100 percent of child support cases within 1 year. The Supreme Court shall document the court's commitment to achieve these time standards, agree in writing to provide quarterly data beginning January 1, 1987, on the disposition of cases filed after October 1, 1986, and provide evidence of the court's recordkeeping system for tracking compliance with the time standards. The department shall apply to the United States Department of Health and Human Services to obtain an exemption from the federal expedited process requirements. The Supreme Court shall on or before February 1, 1987, by rule provide for support enforcement masters to meet federal IV-D requirements.

Section 17. Section 61.183, Florida Statutes, is created to read:

61.183 Mediation of certain contested issues.—

(1) In any proceeding in which the issues of custody, primary residence, or visitation of a child are contested, the court may refer the parties to mediation. Mediation services may be provided by the court or by any court-approved mediator.

(2) If an agreement is reached by the parties on the contested issues, a consent order incorporating the agreement shall be prepared by the mediator and submitted to the parties and their attorneys for review. Upon approval by the parties, the consent order shall be reviewed by the court and, if approved, entered. Thereafter, the consent order may be enforced in the same manner as any other court order.

(3) Any information from the files, reports, case summaries, mediator's notes, or other communications or materials, oral or written, relating to a mediation proceeding pursuant to this section, obtained by any person performing mediation duties, is privileged and confidential and may not be disclosed without the written consent of all parties to the proceeding. Any research or evaluation effort directed at assessing program activities or performance must protect the confidentiality of such information. Each party to a mediation proceeding has a privilege during and after the proceeding to refuse to disclose and to prevent another from disclosing communications made during the proceeding, whether or not the contested issues are successfully resolved. This subsection shall not be construed to prevent or inhibit the discovery or admissibility of any information that is otherwise subject to discovery or that is admissible under applicable law or rules of court, except that any conduct or statements made during a mediation proceeding or in negotiations concerning the proceeding are inadmissible in any judicial proceeding.

Section 18. Subsections (1) and (2) of section 88.065, Florida Statutes, are amended to read:

88.065 Conditions of interstate rendition.—

(1) Before making demand upon the governor of another state for the surrender of a person charged in this state with failing to provide for the support of a person, the Governor of this state may require *the department* ~~any prosecuting attorney of this state~~ to satisfy him that at least 60 days prior thereto the petitioner initiated proceedings for support under this act or that any proceeding would be of no avail.

(2) If, under a substantially similar act, the governor of another state makes a demand upon the Governor of this state for the surrender of a person charged in that state with failure to provide for the support of a person, the Governor may require *the department* ~~any prosecuting attorney~~ to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective. If it appears to the Governor that a proceeding would be effective but has not been initiated, he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

Section 19. Section 88.121, Florida Statutes, is amended to read:

88.121 Officials to represent petitioner.—If this state is acting as an initiating state, the *department* ~~prosecuting attorney upon the request of the court or of the Department of Health and Rehabilitative Services~~ shall represent the petitioner in any proceeding under this act. *In non-IV-D cases, the petitioner may be represented by private counsel.*

Section 20. Section 88.151, Florida Statutes, is amended to read:

88.151 Costs and fees.—

(1) An initiating court shall not require *prior* payment of either a filing fee or other *court* costs from the petitioner but may request the responding court to *assess filing* ~~collect~~ fees, *attorney's fees, court costs, and other administrative* ~~and~~ costs *against* ~~from~~ the respondent *and include this assessment as part of the order.* A responding court shall not require *prior* payment of a filing fee or other *court* costs from the petitioner, but it may direct that all *filing* fees, *attorney's fees, court costs, and other administrative* ~~and~~ costs requested by the initiating court and *those fees and costs* incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, *other administrative costs,* or other service supplied to the respondent, be paid in whole or in part by the respondent or by the state or political subdivision thereof. *If the costs cannot be recovered from the respondent, or by the state or political subdivision thereof, the petitioner shall be responsible.* ~~These costs or fees do not have priority over amounts due to the petitioner.~~

(2) The department shall impose and collect an application fee pursuant to s. 409.2567 for services provided under this chapter.

Section 21. Section 88.181, Florida Statutes, is amended to read:

88.181 Duty of the court and officials of this state as responding state.—

(1) After the responding court receives copies of the motion, certificate, and act from the initiating court or state information agency, the clerk of the court shall docket the case and notify the *department* ~~prosecuting attorney~~ of his action.

(2) The *department* ~~prosecuting attorney~~ shall prosecute the case diligently. *It* ~~He~~ shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the respondent or his property and shall request the court to set a time and place for a hearing and give notice thereof to the respondent in accordance with law.

Section 22. Section 88.191, Florida Statutes, is amended to read:

88.191 Further duties of court and officials in the responding state.—

(1) If, because of inaccuracies in the motion or otherwise, the court cannot obtain jurisdiction, the *department* ~~prosecuting attorney~~ shall inform the court of what *it* ~~he~~ has done and request the court to continue the case pending receipt of more accurate information or an amended motion from the initiating court.

(2) If the respondent or his property is not found in the circuit, and the *department* ~~prosecuting attorney~~ discovers that the respondent or his property may be found in another circuit of this state or in another state, *it* ~~he~~ shall so inform the court. Thereupon, the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other circuit or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this act apply to the recipient of the documents so forwarded. If the clerk of a court of this state forwards documents to another court, he shall forthwith notify the initiating court.

(3) If the *department* ~~prosecuting attorney~~ has no information as to the location of the respondent or his property, *it* ~~he~~ shall so inform the initiating court.

Section 23. Section 88.211, Florida Statutes, is amended to read:

88.211 Order of support.—If the responding court finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to the order. *The court shall enter a separate order for income deduction pursuant to chapter 61.* Support orders made pursuant to this act shall require that payments be made to the clerk of the court of the responding state. The court and *the department* ~~prosecuting attorney of any circuit in which the respondent is present or has property~~ have the same powers and duties to enforce the order as have those of the circuit in which it was first issued. If enforcement is impossible or cannot be completed in the circuit in which the order was issued, the *department* ~~prosecuting attorney~~ shall *prosecute the order in* ~~send a certified copy of the order to the prosecuting attorney of~~ any circuit in which it appears that proceedings to enforce the order would be effective. The *department shall* ~~prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and~~ report the results of the proceedings to the court first issuing the order.

Section 24. Section 88.251, Florida Statutes, is amended to read:

88.251 Additional duty of initiating court.—An initiating court or the IV-D agency shall receive and disburse forthwith all payments made by the respondent or sent by the responding court. This duty may be carried out through the *central governmental depository established pursuant to s. 61.181* ~~clerk of the court~~.

Section 25. Section 88.297, Florida Statutes, is amended to read:

88.297 Appeals.—If the *department* ~~prosecuting attorney~~ is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, *it* ~~he~~ may:

(1) Perfect an appeal to the proper appellate court if the support order was issued by a court of this state; or

(2) If the support order was issued in another state, cause the appeal to be taken in the other state.

In either case, *the* expenses of an appeal of *a* ~~an~~ IV-D case may be paid from funds appropriated for the IV-D program.

Section 26. Section 88.345, Florida Statutes, is amended to read:

88.345 Official to represent petitioner.—If this state is acting either as a rendering or a registering state, the *department* ~~prosecuting attorney upon the request of the court or the Department of Health and Rehabilitative Services~~ shall represent the petitioner in proceedings under this part. *In non-IV-D cases, the petitioner may be represented by private counsel.*

Section 27. Subsection (2) of section 88.351, Florida Statutes, is amended to read:

88.351 Registration procedure; notice.—

(2) Promptly upon registration, the clerk of the circuit court shall send by certified or registered mail to the respondent at the address given a notice of the registration with a copy of the registered support order and the post office address of the petitioner. He shall also docket the case and notify the *department* ~~prosecuting attorney and the IV-D agency~~ of his action. The *department* ~~prosecuting attorney~~ shall proceed diligently to enforce the order.

Section 28. Paragraph (b) of subsection (3) of section 95.11, Florida Statutes, is amended to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(3) WITHIN FOUR YEARS.—

(b) An action relating to the determination of paternity, *with the time running from the date the child reaches the age of majority.*

Section 29. Section 409.2551, Florida Statutes, is amended to read:

409.2551 Legislative intent.—Common-law and statutory procedures governing the remedies for enforcement of support for financially dependent children by *persons* responsible *for their support* ~~parents~~ have not proven sufficiently effective or efficient to cope with the increasing incidence of financial dependency. The increasing workload of courts, prosecuting attorneys, and the Attorney General has resulted in a growing burden on the financial resources of the state, which is constrained to provide public assistance for basic maintenance requirements when parents fail to meet their primary obligations. The state, therefore, exercising its police and sovereign powers, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of dependent children shall be augmented by additional remedies directed to the resources of the responsible parents. In order to render resources more immediately available to meet the needs of dependent children, it is the legislative intent that the remedies provided herein are in addition to, and not in lieu of, existing remedies. It is declared to be the public policy of this state that this act be construed and administered to the end that children shall be maintained from the resources of *their* ~~responsible~~ parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs.

Section 30. Section 409.2554, Florida Statutes, is amended to read:

409.2554 Definitions.—As used in *ss. 409.2551-409.2597, the term* ~~this act~~:

(1) "Department" means the Department of Health and Rehabilitative Services.

(2) "Dependent child" means any *unemancipated* person under the age of 18, *any person* ~~or~~ under the age of 21 and still in school, *or any person who is mentally or physically incapacitated.* ~~who has been deprived of parental support or care by reason of death, continued absence from the home, or physical or mental incapacity of a parent.~~

(3) "Court" means the circuit court.

(4) "Court order" means any judgment or order of any court of appropriate jurisdiction of the state, or an order of a court of competent jurisdiction of another state, ordering payment of a set or determinable amount of support money.

(5) *"Obligee" means the person to whom support payments are made pursuant to an alimony or child support order.* ~~"Responsible parent" means the natural or adoptive parent of a dependent child, which parent owes a duty of support or against whom a proceeding for the establishment of a duty of support, the enforcement of a duty of support, or the registration of a support order has been commenced.~~

(6) "Obligor" means a person who is responsible for making support payments pursuant to an alimony or child support order.

(7)~~(6)~~ "Public assistance" means money assistance paid on the basis of Title IV-A and Title IV-E of the Social Security Act.

(8)~~(7)~~ "Program attorney" means an attorney employed by the department, under contract with the department, or employed by a contractor of the department to provide legal representation for the department in a proceeding related to determination of paternity or *establishment or enforcement of* ~~child~~ support ~~enforcement~~ brought pursuant to law.

(9)~~(8)~~ "Prosecuting attorney" means any private attorney, county attorney, city attorney, state attorney, program attorney, or an attorney employed by an entity of a local political subdivision who engages in legal action related to the determination of paternity or *establishment or enforcement of* ~~child~~ support ~~enforcement~~ brought pursuant to this act.

(10)~~(9)~~ "Support" means support for a child and spouse or former spouse who is living with the child or children, but only if a support obligation has been established for that spouse and the child support obligation is being enforced under Title IV-D of the Social Security Act.

Section 31. Section 409.2561, Florida Statutes, is amended to read:

409.2561 Public assistance payments; reimbursement of obligation to department; assignment of rights; subrogation.—

(1) Any payment of public assistance money made to, or for the benefit of, any dependent child creates an obligation in an amount equal to the amount of public assistance ~~so~~ paid. If there has been a prior court order or final judgment of dissolution of marriage establishing an obligation of support, the obligation is limited to the amount provided by such court order or decree. The *obligor shall* ~~responsible parent must voluntarily~~ discharge the *reimbursement* obligation ~~pursuant to the terms of the court order or decree~~. If the *obligor* ~~responsible parent~~ fails to discharge the reimbursement obligation, the department may *apply for a contempt order* ~~petition the court to utilize the contempt power of the court~~ to *enforce* ~~demand~~ reimbursement for support furnished. The extraordinary remedy of contempt is applicable in child support enforcement cases because of the public necessity for ensuring that dependent children be maintained from the resources of *their* ~~responsible~~ parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through the public assistance program. If there is no prior court order establishing an obligation of support, the court shall establish the liability of the *obligor* ~~responsible parent~~, if any, for reimbursement of public assistance moneys paid. Priority shall be given to establishing continuing reasonable support for the dependent child. The department may *apply* ~~petition the appropriate court~~ for modification of a court order on the same grounds as either party to the cause and shall have the right to settle and compromise actions brought pursuant to law.

~~(2) In determining the amount to be paid by the responsible parent, the court shall consider the recommendation, if any, of the department, which recommendation shall be based on the income, earning capacity, resources, and needs of the responsible parent and the needs of the dependent child for whom support is sought.~~

(2)~~(3)~~ By accepting public assistance for~~, or on behalf of,~~ a dependent child, ~~including foster care maintenance payments made pursuant to Title IV-E of the Social Security Act,~~ the recipient *assigns* ~~is deemed to have made an assignment~~ to the department ~~of~~ any right, title, and interest in any child support obligation owed ~~to or~~ for that child up to the amount of public assistance money paid for~~, or on behalf of,~~ the dependent child. The recipient *appoints* ~~is also deemed to have appointed~~ the department as his attorney in fact to act in his name, place, and stead to perform specific acts relating to child support, including but not limited to:

(a) Endorsing any draft, check, money order, or other negotiable instrument representing child support payments which are received on behalf of the dependent child as reimbursement for the public assistance moneys previously or currently paid.

(b) Compromising claims.

(c) Pursuing civil and criminal enforcement of support obligations.

(d) Executing verified complaints for the purpose of instituting an action for the determination of paternity of a child born, or to be born, out of wedlock.

(3)~~(4)~~ The department shall be subrogated to the right of the dependent child or person having the care, custody, and control of the child to prosecute or maintain any support action or action to determine paternity or execute any legal, equitable, or administrative remedy existing under the laws of the state to obtain reimbursement of public assistance paid, being paid, or to be paid.

(4)~~(5)~~ No obligation of support under this section shall be incurred by any person who is the recipient of public assistance moneys for the benefit of a dependent child or who is incapacitated and financially unable to pay as determined by the department.

Section 32. Section 409.2564, Florida Statutes, is amended to read:

409.2564 Actions for support.—

(1) In each case in which regular child support payments are not being made ~~to the department~~ as provided herein, the department shall institute, within 30 days after determination of the *obligor's* ~~responsible parent's~~ reasonable ability to pay, *action as is necessary to secure the obligor's payment of current support and any arrearage which may have accrued under an existing order of support* ~~an action for support against any person liable for the support of the child~~. The department shall notify the program attorney in the judicial circuit in which the recipient resides setting forth the facts in the case, including the debtor's address, if known, and the public assistance case number. Whenever applicable, the procedures established under the provisions of chapter 88, ~~the~~ Uniform Reciprocal Enforcement of Support ~~Law~~, and chapter *61* ~~39~~, *Dissolution of Marriage; Support; Custody* ~~relating to dependent children~~, *and chapter 39, Proceedings Relating to Juveniles, may govern actions instituted under the provisions of this act, except that actions for support under chapter 39 brought pursuant to this act shall not require any additional investigation or supervision by the department.*

(2) The order for support entered pursuant to an action instituted by the department under the provisions of subsection (1) shall *require* ~~stipulate~~ that the ~~child~~ support payments be made periodically to the department~~. When feasible, such payments may be made~~ through the ~~court~~ depository. Upon receipt of a payment made by the *obligor* ~~responsible parent~~ pursuant to any order of the court, the *depository* ~~clerk of the court~~ shall transmit the payment to the department *within 2 working days*. Upon request, the *depository* ~~clerk of the court~~ shall furnish to the department a certified statement of all payments made by the *obligor* ~~defendant~~. *Such statement shall be provided by the depository at no cost to the department.*

(3) When it is no longer authorized to receive payments for the obligee, the department shall notify the *depository to redirect income deduction payments to the obligee.* ~~program attorney if public assistance for the benefit of the dependent child is discontinued for any reason or if the responsible parent has failed to provide the required periodic support for 2 consecutive months, or when the responsible parent is in arrears 60 days or more, in order that the program attorney may institute appropriate action.~~

(4) Whenever the department has undertaken an action for enforcement of support, the department may enter into an agreement with the

obligor ~~responsible parent~~ for the entry of a judgment determining paternity, if applicable, and for periodic child support payments based on the *obligor's* ~~responsible parent's~~ reasonable ability to pay. Prior to entering into this agreement, the *obligor* ~~responsible parent~~ shall be informed that a judgment will be entered based on the agreement. The clerk of the court shall file the agreement without the payment of any fees or charges, and the court, upon entry of the judgment, shall forward a copy of the judgment to the parties to the action. In making a determination of the *obligor's* ~~responsible parent's~~ reasonable ability to pay *and until guidelines are established for determining child support award amounts*, the following criteria shall be considered:

(a) All earnings, income, and resources of the *obligor* ~~responsible parent~~.

(b) The ability of the *obligor* ~~responsible parent~~ to earn.

(c) The reasonable necessities of the *obligor* ~~responsible parent~~.

(d) The needs of the dependent child for whom support is sought.

(5) Whenever the IV-D agency has undertaken an action to determine paternity, establish an obligation of support, or enforce an obligation of support, the IV-D agency shall be a party to the action only for those purposes allowed under Title IV-D of the Social Security Act. The program attorney shall be the attorney of record solely for the purposes of child support enforcement as authorized under Title IV-D and may prosecute only those activities which are eligible for federal financial participation under Title IV-D.

(6) The department, its officers, employees and agents, and all persons and agencies acting pursuant to contract with the department are immune from liability in tort for actions taken to establish or enforce child support obligations if such actions are taken in good faith, with apparent legal authority, without malicious purpose, and in a manner not exhibiting wanton and willful disregard of rights or property of another.

Section 33. Section 409.2567, Florida Statutes, is amended to read:

409.2567 Services to individuals not otherwise eligible.—All ~~child~~ support *enforcement* ~~collection~~ and paternity determination services provided by the department shall be made available *on behalf of all dependent children.* ~~to any individual not otherwise eligible for such services,~~ *Services shall be provided upon acceptance of public assistance or* upon proper application filed with the department. The department shall *adopt rules to provide for a reasonable application fee for services provided under this chapter and to provide for recovery of administrative costs* ~~recover any costs incurred in providing the services under this section~~ from the *obligor* ~~resources of the responsible parent as a first preference or as otherwise provided by federal law~~. *The obligor is responsible for all administrative costs. If the administrative costs cannot be recovered from the obligor, the obligee is responsible.*

Section 34. Section 409.2569, Florida Statutes, is created to read:

409.2569 Continuation of support services for public assistance recipients whose benefits are terminated.—Whenever a recipient ceases to receive public assistance, the department shall continue to provide services for a period of 5 months after the recipient ceases to receive benefits unless otherwise advised in writing not to do so by the former recipient. Costs may not be collected for services provided during the 5-month period. These services shall be provided in accordance with the state plan of priorities. After the 5-month period, the department shall continue to provide support services and to recover all costs incurred in providing the services pursuant to s. 409.2567, if the recipient instructs the department to continue services.

Section 35. Subsection (1) of section 409.2571, Florida Statutes, is amended to read:

409.2571 Court and witness fees; bond.—

(1) The department or an authorized agent thereof shall be entitled to the necessary services of the clerk and court reporter in any proceedings under this act, including contempt proceedings; and no fees for such court or clerk services shall be charged against the department. No bond shall be required of the department for any action taken pursuant to this act, except by order of the court. Nothing herein shall prevent the ~~court~~ depository from charging and collecting fees for services rendered. Nothing herein shall prevent the court from charging *an obligor* ~~a defendant~~ for action taken pursuant to this act for all costs and fees incurred in the proceedings.

Section 36. Section 409.2572, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.2572, F.S., for present text.)

409.2572 Cooperation.—

(1) An applicant for, or recipient of, public assistance for a dependent child shall cooperate with the department or a program attorney in the following:

(a) Identifying and helping to locate the alleged parent or obligor.

(b) Assisting in establishing the paternity of a child born out of wedlock.

(c) Assisting in obtaining support payments from the obligor.

(d) Assisting in obtaining any other payments or property due from the obligor.

(e) Identifying another putative father when an earlier named putative father has been excluded by Human Leukocyte Antigen or other scientific test.

(f) Appearing at an office of the department, or another designated office, as necessary to provide verbal or written information, or documentary or physical evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient.

(g) Appearing as a witness at judicial or other hearings or proceedings.

(h) Providing information under oath regarding the identity or location of the alleged father of the child or attesting to the lack of information.

(i) Paying to the department any child support received from the obligor after the assignment is effective.

(2) Noncooperation, or failure to cooperate, is defined to include, but is not limited to, the following conduct:

(a) Failing or refusing to identify the father of the child, or where more than one man could be the father of the child, to identify all such persons. If the mother identifies one or more persons as the possible father of the child and asserts that there are no others who could be the father of the child, but the Human Leukocyte Antigen test or other scientific test indicates that none of the persons identified could in fact have been the father of the child, the mother shall be deemed noncooperative. If she subsequently identifies another person as the possible father of the child, she shall still be deemed noncooperative until that person has been given the Human Leukocyte Antigen test or other scientific test and is not excluded as the father by the test.

(b) Failing to appear for two appointments at the department or other designated office without justification and notice.

(c) Providing false information regarding the paternity of the child or the obligation of the obligor.

(d) All actions of the obligee which interfere with the state's efforts to proceed to establish paternity, the obligation of support, or to enforce or collect support.

(e) Failure to appear at the laboratory for drawing of blood samples, or leaving the laboratory prior to the drawing of blood samples without compelling reasons.

(3) Any person who is receiving public assistance for, or who has the care, custody, or control of, a dependent child and who without good cause fails or refuses to cooperate with the department, a program attorney, or a prosecuting attorney in the course of administering this chapter shall have his need removed from the public assistance grant. The department shall appoint a protective payee to receive the public assistance grant and to use it to purchase the necessities required by the dependent child. The protective payee shall maintain written records of the public assistance receipts and disbursements for review by the department.

Section 37. Section 409.2574, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.2574, F.S., for present text.)

409.2574 Income deduction enforcement in Title IV-D cases.—

(1) The department or its designee shall enforce income deduction orders on behalf of obligees who have applied for IV-D services, and the department shall be considered a party in the action.

(2)(a) In a support order being enforced under Title IV-D of the Social Security Act and which order does not specify income deduction, income deduction shall be enforced by the department or its designee without the need for any amendment to the support order or any further action by the court.

(b) The department shall serve a notice of its intent to enforce income deduction on the obligor. Service upon an obligor under this section shall be made in the manner prescribed in chapter 48. The department shall furnish to the obligor a statement of his rights, remedies, and duties in regard to the income deduction.

(c) The obligor has 15 days from the serving of the notice to request a hearing with the department to contest enforcement of income deduction.

(d) The department shall adopt rules to ensure that applicable provisions of ss. 61.1301 and 61.13015 are followed.

Section 38. Section 409.2584, Florida Statutes, is amended to read:

409.2584 Interest on *obligations* ~~debts~~ due; waiver.—The department may collect interest of *10* 6 percent per *year* ~~annum~~ on *all* ~~any child~~ support *obligations* ~~debt~~ due and owing to the department; however, the department is not required to maintain interest balance due accounts, and said interest may be waived by the department if the waiver would facilitate the collection of the *obligation* ~~debt~~.

Section 39. Section 742.011, Florida Statutes, is amended to read:

742.011 Determination of paternity proceedings; jurisdiction.—Any woman who *is* ~~shall be~~ pregnant or *has* ~~delivered of~~ a child, *any man who has reason to believe that he is the father of a child, or any child* may bring proceedings in the circuit court, in chancery, to determine the paternity of *the* ~~such~~ child *when paternity has not been established by law or otherwise.*

Section 40. Section 742.021, Florida Statutes, is amended to read:

742.021 Venue, process, complaint.—The proceedings shall be ~~by verified complaint filed~~ in the circuit court of the county *where* ~~in which~~ the *plaintiff* ~~woman~~ resides or of the county *where* ~~in which~~ the *defendant* ~~alleged father~~ resides. The complaint shall aver sufficient facts charging the paternity of the child. Process directed to the defendant shall issue forthwith requiring the defendant to file ~~his~~ written defenses to the complaint in the same manner as suits in chancery. Upon application and proof under oath, the court may issue a writ of ne exeat against the defendant on such terms and conditions and conditioned upon bond in such amount as the court may determine.

Section 41. Section 742.031, Florida Statutes, is amended to read:

742.031 Hearings; court orders for support, hospital expenses, and attorney's fee.—Hearings for the purpose of establishing or refuting the allegations of the complaint and answer shall be held in the chambers and may be restricted to ~~such~~ persons, in addition to the parties involved and their counsel, as the judge in his discretion may direct. The court shall determine the issues of paternity of the child, and the ability of the parents ~~and each of them~~ to support the child. ~~and~~ If the court *finds that* ~~shall find~~ the *alleged father is* ~~defendant to be~~ the father of the child, *it* ~~he~~ shall so order. *If appropriate, the court* ~~and~~ shall ~~further~~ order the *father* ~~defendant~~ to pay the complainant, her guardian, or *any* ~~such~~ other person assuming responsibility for the child, *moneys* ~~as the judge may direct, such sum or sums as shall be~~ sufficient to pay reasonable attorney's *fees* ~~fee~~, hospital or medical expenses, cost of confinement, and any other expenses incident to the birth of *the* ~~such~~ child *and to pay all costs of the proceeding. The court shall order either or both parents owing a duty of support to the child to pay support as from the circumstances of the parties is equitable.* ~~In addition, the court shall order the defendant to pay periodically for the support of such child such sums as shall be fixed by the court in accordance with the provisions of this act, and also all taxable costs of the proceedings. Upon request of either party, the issue of the paternity of such child may be tried by jury and the chancellor shall transfer the cause for the determination of such issue.~~

Section 42. Section 742.10, Florida Statutes, is amended to read:

742.10 *Establishment of paternity for children born out of wedlock* ~~Chapter in lieu of other proceedings~~.—This chapter *provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock. When the establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, dependency under workers' compensation or similar compensation programs, or vital statistics, it shall constitute the establishment of paternity for purposes of this chapter. If no adjudicatory proceeding was held, a determination of paternity shall create a rebuttable presumption, as defined by s. 90.304, of paternity* ~~shall be in lieu of any other proceedings provided by law for the determination of paternity and support of children born out of wedlock~~.

Section 43. Section 742.12, Florida Statutes, is created to read:

742.12 Scientific testing to determine paternity.—

(1) In any proceeding to establish paternity in law or in equity, the court on its own motion or upon request of a party may require the child, mother, and alleged fathers to submit to Human Leukocyte Antigens tests or other scientific tests that are generally acceptable within the scientific community to show a probability of paternity. If the Human Leukocyte Antigen tests or other scientific tests are required, the court shall direct that the tests be conducted by a qualified technical laboratory. The results of the Human Leukocyte Antigen tests or other scientific tests, together with the opinions and conclusions of the test laboratory, shall be filed with the court. Test results are admissible in evidence and should be weighed along with other evidence of the paternity of the alleged father unless the statistical probability of paternity equals or exceeds 95 percent. A statistical probability of paternity of 95 percent or more creates a rebuttable presumption, as defined by s. 90.304, that the alleged father is the biological father of the child. If a party fails to rebut the presumption of paternity which arose from the statistical probability of paternity of 95 percent or more, the court may enter a summary judgment of paternity. If the test results show the alleged father cannot be the biological father, the case shall be dismissed with prejudice.

(2) If the test results or the expert analysis of the inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing.

(3) Verified documentation of the chain of custody of the blood or other specimens is competent evidence to establish the chain of custody.

(4) The fees and costs for Human Leukocyte Antigen tests or other scientific tests shall be paid by the parties in proportions and at times determined by the court unless the parties reach a stipulated agreement which is adopted by the court.

Section 44. (1) There is created the Study Commission on Child Support Enforcement. Members shall be appointed within 15 days after October 1, 1986.

(2) The commission membership shall be comprised of:

(a) Two members to be appointed by the President of the Senate and two members to be appointed by the Speaker of the House of Representatives;

(b) Six members to be appointed by the Governor; two shall be employees in an executive department; two shall be concerned residents of the state who are not employees in an executive department; two shall be local officers under contract with the Department of Health and Rehabilitative Services providing child support enforcement or depository services;

(c) Two members of the judicial branch to be appointed by the Chief Justice of the Supreme Court, one of whom shall be a Supreme Court Justice who shall serve as chairman of the commission;

(d) Two private attorneys who are members in good standing of The Florida Bar to be appointed by the President of The Florida Bar.

(3) Within 30 days after the appointment of the membership, the commission shall meet to establish procedures for the conduct of the business of the commission.

(4) The commission shall study and make recommendations regarding:

(a) Guidelines to be used by the courts, beginning no later than October 1, 1987, to establish child support award amounts in paternity, dissolution, separation, or modification-of-support proceedings, or in any other proceedings in which child support is an issue.

(b) Continuation of the demonstration projects utilizing the evaluations submitted to the Legislature.

(c) A centralized filing system of all liens both real and personal resulting from delinquent alimony or child support payments including the depository responsible for monitoring payments.

(5) The commission shall submit a final report to the Governor, to the Chief Justice of the Supreme Court, to the President of the Senate, and to the Speaker of the House of Representatives by September 1, 1987. The report shall include the findings and recommendations of the commission.

(6) The commission is assigned to the Department of Health and Rehabilitative Services for administrative purposes, and the department shall provide staff for the commission and provide all necessary data collection, analysis, and research and support services.

(7) Members of the commission shall serve without compensation but shall be entitled to be reimbursed for per diem and travel expenses as provided for in s. 112.061, Florida Statutes.

(8) The commission shall expire December 1, 1987.

Section 45. Section 6 of chapter 85-178, Laws of Florida, is amended to read:

Section 6. Child support enforcement demonstration projects.—

(1) The Department of Health and Rehabilitative Services shall fund three comprehensive child support enforcement demonstration projects. One demonstration project shall be conducted in Dade County and be administered by the state attorney for the eleventh circuit. The second demonstration project shall be conducted in Manatee County and be administered by the clerk of the circuit court. The third demonstration project shall be in Palm Beach County and be administered by the Department of Health and Rehabilitative Services.

(2) All services required by the state IV-D Plan must be provided and such services must be provided in accordance with state and federal policies under each demonstration project.

(3) The operation of the program shall be subject to review and audit by state and federal officials responsible for IV-D program functions.

(4) All state and federal reporting requirements must be met in a timely manner.

(5) Funds for the operation of the demonstration projects in Dade and Manatee Counties shall be provided on a cost reimbursement basis pursuant to contract with the state IV-D agency. *The state IV-D agency may withhold funds or terminate the contract with the demonstration project in Dade County or Manatee County for failure on the part of the demonstration project to comply with federal IV-D requirements.*

(6) *An* ~~A preliminary~~ evaluation of the demonstration projects shall be provided to the Legislature on March 1, *1987. The state IV-D agency shall contract for the evaluation. The sum of $50,000 is hereby appropriated from the General Revenue Fund for that purpose.* ~~1986.~~

Section 46. Sections 61.081, 409.2587, and 742.041, Florida Statutes, are hereby repealed.

Section 47. Subsection (11) of section 88.031, Florida Statutes, is hereby repealed.

Section 48. The repeal by this act of section 61.081, Florida Statutes, shall not affect the legality of any income deduction order or alimony or child support order which was entered by a court of competent jurisdiction prior to the effective date of this act.

Section 49. The repeal or amendment of any laws by this act shall not affect any cause of action which accrued prior to, or was pending upon, the effective date of this act.

Section 50. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 51. This act shall take effect October 1, 1986, except that this section and section 61.181(1) and (2), Florida Statutes, created by section 15 shall take effect July 1, 1986.

Amendment 2—On page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to domestic relations; amending s. 61.001, F.S., relating to the construction and purposes of ch. 61, F.S.; providing technical changes; amending s. 61.021, F.S.; providing that one of the parties to a marriage must reside 6 months in the state before filing a petition for dissolution; creating s. 61.046, F.S.; providing definitions for purposes of ch. 61, F.S.; amending ss. 61.052, 61.08, 61.09, 61.10, F.S., relating to dissolution of marriage, alimony, alimony and child support unconnected with dissolution, and adjudication of obligation to support spouse or minor child; providing changes in terminology and technical changes; amending s. 61.13, F.S.; providing that child support orders contain provisions for health insurance when it is reasonably available; prohibiting the withholding of support payment because the custodial parent refuses to honor visitation rights; prohibiting the custodial parent from preventing visitation for failure to make child support payments; authorizing certain relief; providing remedies; amending s. 61.1301, F.S.; providing for the issuance of income deduction orders; providing for a statement to an obligor regarding his rights, remedies, and duties with regard to an income deduction order; creating s. 61.13015, F.S.; providing for the enforcement of income deduction orders; providing procedures; providing for collection of administrative costs; providing civil penalties; creating s. 61.1352, F.S.; providing for certificates of nonsupport; providing for claims of lien against real, personal, and intangible property when an obligor is delinquent in support; providing procedures; providing for cumulative remedies; creating s. 61.1354, F.S.; providing for the sharing of information between consumer reporting agencies and the IV-D agency; amending s. 61.14, F.S., relating to modification of support, maintenance, or alimony agreements or orders; providing conforming and technical changes; amending s. 61.17, F.S.; providing additional methods for enforcing judgments; amending s. 61.181, F.S.; providing that the Department of Health and Rehabilitative Services or its contractual representative is responsible for local support enforcement services, including depository services, required by the State Title IV-D Plan; providing that the Department of Health and Rehabilitative Services may contract with local officers for the provision of local support enforcement services or depository services; providing contracting procedures; providing standards for eligibility of applicants; providing funding; providing for termination of contracts; providing for reimbursement of the state by local officers for federally imposed fiscal sanctions; providing for a central governmental depository for all alimony and child support payments; providing fees; providing for the acceptance of checks; providing for distribution of support payments; providing rulemaking authority; requiring the Supreme Court to by rule provide for support enforcement masters to meet federal IV-D requirements; creating s. 61.183, F.S.; providing for mediation; providing procedures; providing for the confidentiality of certain information; providing that conduct or statements made during a mediation proceeding are inadmissible in any civil proceeding; amending ss. 88.065, 88.121, F.S., relating to conditions of interstate rendition and to the representation of petitioners; providing conforming language; providing that private counsel in non-IV-D cases may represent a petitioner in the proceedings; amending s. 88.151, F.S.; providing for the assessment of application fees, filing fees, attorney's fees, court costs, and administrative costs against a respondent in a court order; providing that the petitioner shall be responsible if costs cannot be recovered from respondent; authorizing the IV-D agency to impose and collect fees for services rendered; amending ss. 88.181, 88.191, F.S., relating to the duty of this state as responding state and of the other state as responding state; providing conforming language; amending s. 88.211, F.S.; requiring the responding court if it finds a duty of support to enter separate income deduction orders pursuant to ch. 61, F.S.; providing conforming language; amending s. 88.251, F.S., relating to additional duty of initiating court; providing conforming language; amending ss. 88.297, 88.345, 88.351, F.S., relating to appeals, representation, and registration procedures; providing conforming language; amending s. 95.11, F.S.; providing that the statute of limitations in determination of paternity proceedings runs from the date the child reaches majority; amending s. 409.2551, F.S., relating to legislative intent with respect to enforcement of support for financially dependent children; providing conforming language; amending s. 409.2554, F.S.; providing definitions for purposes of ss. 409.2551-409.2597, relating to public assistance and actions for support; amending s. 409.2561, F.S., relating to public assistance payments and reimbursement of obligation to the Department of Health and Rehabilitative Services; providing conforming language; amending s. 409.2564, F.S.; provid-

ing that any order issued by the court as a result of an action shall require payments to be made to the department through the depository; requiring the depository to provide to the department certified payment statements at no cost to the department; requiring the department to notify the depository to redirect payments in certain cases; limiting the IV-D agency's participation in legal actions; granting immunity from liability in tort actions; providing conforming language; amending s. 409.2567, F.S., relating to services to individuals not otherwise eligible; providing conforming language and technical changes; creating s. 409.2569, F.S.; providing for continuation of services to public assistance recipients after benefits terminate; amending s. 409.2571, F.S., relating to court and witness fees and bond; providing conforming language; amending s. 409.2572, F.S.; specifying terms of cooperation in public assistance cases; specifying penalties for noncooperation in public assistance cases; amending s. 409.2574, F.S.; requiring the Department of Health and Rehabilitative Services to enforce income deduction orders for IV-D applicants; requiring that the department be a party; providing that support orders being enforced under IV-D do not need an amendment or further action by the court to be enforced by income deduction; providing procedures; amending s. 409.2584, F.S.; providing for the collection of interest of 10 percent per year on certain support obligations; amending s. 742.011, F.S.; specifying persons who may bring a paternity action; amending s. 742.021, F.S., relating to venue in paternity proceedings; providing conforming language and technical changes; amending s. 742.031, F.S.; deleting the authority for paternity issues to be tried by a jury; providing that the court shall order either or both parents to pay support; amending s. 742.10, F.S.; providing that ch. 742, F.S., establishes the primary jurisdiction and procedures for determining paternity for children born out of wedlock; creating s. 742.12, F.S.; providing for scientific testing to determine paternity; providing for payment of test fees; providing for legal presumptions of paternity; creating the Study Commission on Child Support Enforcement; providing for membership; providing responsibilities of the commission; requiring submission of a report; assigning the commission to the Department of Health and Rehabilitative Services for administrative purposes; requiring the department to staff the commission; amending section 6 of ch. 85-178, Laws of Florida, to continue three comprehensive child support enforcement projects; providing that the state IV-D agency may withhold funds or terminate the contract for failure to comply with federal IV-D requirements; providing for an evaluation of the projects; providing an appropriation; repealing s. 61.081, F.S., relating to issuance of income deduction orders in conjunction with alimony orders; repealing s. 88.031(11), F.S., relating to the definition of prosecuting attorney under the Revised Uniform Reciprocal Enforcement of Support Act; repealing s. 409.2587, F.S., relating to uncollectible child support debts; repealing s. 742.041, F.S., relating to monthly child support contributions; providing that the legality of income deduction orders, child support orders, and alimony orders entered prior to the effective date of the act shall not be affected; providing that causes of actions accruing prior to the effective date of the act shall not be affected; providing severability; providing effective dates.

On motion by Senator Fox, by two-thirds vote CS for HB 1313 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Jennings	Plummer
Beard	Gersten	Johnson	Scott
Childers, D.	Girardeau	Kiser	Stuart
Childers, W. D.	Gordon	Langley	Thomas
Crawford	Grant	Malchon	Thurman
Crenshaw	Grizzle	Margolis	Vogt
Deratany	Hair	Meek	Weinstein
Dunn	Hill	Myers	
Fox	Jenne	Peterson	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Neal

CS for CS for SB 670 and CS for SB 224 was laid on the table.

On motion by Senator Stuart, the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Stuart, by two-thirds vote SJR 1345 was withdrawn from the Committee on Finance, Taxation and Claims.

SPECIAL ORDER, continued

Consideration of SB 43 was deferred.

CS for SB 533—A bill to be entitled An act relating to fine arts; creating the Florida Artists Hall of Fame and providing for its location; providing procedures for selecting members to the Hall of Fame; providing an appropriation; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote CS for SB 533 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Girardeau	Langley	Stuart
Beard	Gordon	Malchon	Thomas
Childers, D.	Grant	Margolis	Thurman
Childers, W. D.	Grizzle	McPherson	Vogt
Crenshaw	Hill	Myers	Weinstein
Deratany	Jennings	Peterson	
Dunn	Johnson	Plummer	
Frank	Kiser	Scott	

Nays—None

Vote after roll call:

Yea—Fox, Gersten, Jenne, Kirkpatrick, Neal

HB 1331—A bill to be entitled An act relating to traffic control; amending s. 316.515, F.S., providing that certain width limitations do not apply to specified agricultural vehicles; providing that certain vehicles be operated in accordance with safety requirements prescribed by law and Department of Transportation rules; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendment which was moved by Senator Thomas and adopted:

Amendment 1—On page 1, line 19, after *"trailer"* and on line 20, after *"width"* insert: ,

Senator Thomas moved the following amendments which were adopted:

Amendment 2—On page 2, before line 1, insert:

Section 2. Paragraph (b) of subsection (2) of section 479.26, Florida Statutes, is amended to read:

479.26 Specific information panel program; individual business signs.—

(2)

(b) To provide equitable opportunity for businesses to display signs before the traveling public, any business which displays a sign along the interstate or federal-aid primary highway system, which sign is not permitted pursuant to this section, shall not be permitted to display a sign on any specific information panel.

(c) A ~~In addition, a vehicle services~~ business shall not be permitted to display a sign on any specific information panel unless the owner enters into an agreement with the department to limit the height of any on-premises signs to not more than 15 feet higher than the roof of the main business building and the sign facing size to *750* ~~150~~ square feet or less.

(Renumber subsequent section.)

Amendment 3—In title, on page 1, line 8, after the semicolon (;) insert: amending s. 479.26, F.S.; increasing allowable measurements for certain signs;

On motion by Senator Thomas, by two-thirds vote HB 1331 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Childers, W. D.	Frank	Grant
Beard	Crenshaw	Gersten	Grizzle
Childers, D.	Deratany	Girardeau	Hair

Jennings	Langley	McPherson	Stuart
Johnson	Malchon	Meek	Thurman
Kirkpatrick	Mann	Myers	Weinstein
Kiser	Margolis	Plummer	

Nays—None

Vote after roll call:

Yea—Fox, Jenne, Neal

SB 966—A bill to be entitled An act relating to towing of vehicles; amending s. 715.07, F.S.; authorizing certain businesses to cause certain vehicles on their property to be towed without liability for costs of removal transportation, storage or for damages caused thereby; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendment which was moved by Senator Beard and adopted:

Amendment 1—On page 1, lines 14 and 15, after the comma (,) strike *"solely reserved for use by its customers"* and insert: *and provides a prominently displayed notice of "Reserve Parking for Customers Only,"*

On motion by Senator Beard, by two-thirds vote SB 966 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Kirkpatrick	Plummer
Barron	Gersten	Langley	Scott
Beard	Girardeau	Malchon	Stuart
Childers, D.	Gordon	Mann	Thomas
Childers, W. D.	Grant	Margolis	Thurman
Crawford	Grizzle	McPherson	Vogt
Crenshaw	Hill	Meek	Weinstein
Deratany	Jennings	Myers	
Dunn	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Fox, Jenne, Neal

On motions by Senator Frank, by two-thirds vote CS for HB 813 was withdrawn from the Committees on Health and Rehabilitative Services and Judiciary-Civil.

On motion by Senator Frank—

CS for HB 813—A bill to be entitled An act relating to anatomical gifts; creating s. 732.922, F.S.; providing duties of hospital administrators with respect to requests for anatomical gifts; providing for execution of gifts; requiring Department of Health and Rehabilitative Services rules; providing that no recovery be allowed or proceedings instituted under certain circumstances; providing an effective date.

—a companion measure, was substituted for CS for SB 656 and read the second time by title. On motion by Senator Frank, by two-thirds vote CS for HB 813 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Girardeau	Kiser	Scott
Beard	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Crenshaw	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Weinstein
Dunn	Jennings	Meek	
Frank	Johnson	Myers	
Gersten	Kirkpatrick	Peterson	

Nays—1

Plummer

Vote after roll call:

Yea—Fox, Jenne, Neal

CS for SB 656 was laid on the table.

SB 43—A bill to be entitled An act relating to child abuse; amending s. 901.15, F.S., authorizing a peace officer to make a warrantless arrest if the officer has probable cause to believe that a person has committed child abuse or aggravated child abuse and finds evidence of bodily harm or reasonably believes that there is danger of violence; providing certain immunity; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Weinstein and adopted:

Amendment 1—On page 1, strike all of lines 21-25, and insert: *committed child abuse* and:

1. Finds evidence of bodily harm; or

2. Reasonably believes that there is danger of violence unless the person alleged to have committed the battery *or child abuse* is arrested

Senator Weinstein moved the following amendments which were adopted:

Amendment 2—On page 1, strike all of lines 14 and 15 and insert:

Section 1. Subsection (7) of section 901.15, Florida Statutes, is amended and a new subsection (9) is added to read:

Amendment 3—On page 1, between lines 30 and 31, insert:

(9)(a) The officer has determined that he has probable cause to believe that a felony or misdemeanor has been committed, based upon a signed affidavit provided to the officer by a law enforcement officer of the Florida National Guard, recognized as such by the Uniform Code of Military Justice or the United States Department of Defense Regulations, when the Florida National Guard law enforcement officer has probable cause to believe a felony was committed on state military property, or a felony or misdemeanor was committed in his presence on such property.

(b) The law enforcement officer of the Florida National Guard may detain the person until the arrival of the law enforcement officer granted the warrantless arrest authority under this subsection.

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Weinstein and adopted:

Amendment 4—In title, on page 1, line 6, strike "or aggravated child abuse"

Senator Weinstein moved the following amendment which was adopted:

Amendment 5—In title, on page 1, strike all of lines 2 and 3, and insert: An act relating to arrests; amending s. 901.15, F.S.; providing that a law enforcement officer may arrest a person without a warrant under described circumstances; authorizing certain detention; authorizing a peace officer to

On motion by Senator Weinstein, by two-thirds vote SB 43 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gersten	Kirkpatrick	Plummer
Beard	Girardeau	Kiser	Scott
Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Malchon	Thomas
Crawford	Grizzle	Mann	Thurman
Crenshaw	Hair	Margolis	Vogt
Deratany	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Neal

On motion by Senator Hair, by unanimous consent—

SB 396—A bill to be entitled An act relating to mediation and arbitration; creating s. 44.301, F.S.; providing definitions; creating s. 44.302, F.S.; requiring court-annexed mediation of certain civil actions; authorizing certain privileges for mediation communications; providing for mediation reports; authorizing alternative judicial disposition; creating s. 44.303, F.S.; authorizing court-ordered small claims mediation; providing for privileged communications; requiring the Supreme Court to establish qualifications, rules, and training for mediators and arbitrators; providing for certification; creating s. 44.304, F.S.; authorizing court-ordered nonbinding arbitration of certain civil actions; authorizing parties to request a trial; authorizing the assessment of certain arbitration costs; creating s. 44.305, F.S.; authorizing court-annexed voluntary binding arbitration; providing for compensation of arbitrators; providing duties of the clerk of court; providing for tolling of statutes of limitation; providing for appeals to circuit courts; providing for entry and enforcement of judgments; creating s. 44.306, F.S.; directing the Supreme Court to establish qualifications, rules of conduct, and training standards for mediators and arbitrators; creating s. 44.307, F.S.; requiring judicial circuits to establish court dispute resolution centers; providing duties; creating s. 44.308, F.S.; creating the Florida Court Alternative Dispute Resolution Commission; providing membership and duties; providing for review and repeal; creating s. 25.405, F.S.; creating the Court Alternative Dispute Resolution Trust Fund to fund court-annexed mediation and arbitration services; providing funding sources; providing for reports; amending s. 28.241, F.S.; imposing additional filing charges on civil actions for deposit in the trust fund; requiring the Supreme Court to develop a pilot program for implementation of the act; providing an effective date.

—was read the second time by title.

Senator Hair moved the following amendments which were adopted:

Amendment 1—On page 2, line 16, strike everything after the enacting clause and insert:

Section 1. (1) It is the intent of the Legislature that there be established court-annexed forms of alternative dispute resolution in order to expedite litigation in a less costly manner.

(2) Based upon the recommendations of the plan submitted by the Study Commission on Alternative Dispute Resolution to the Legislature and the Chief Justice of the Florida Supreme Court on February 1, 1986, and based upon any other considerations it deems appropriate, the Supreme Court shall develop a plan for the statewide implementation of mandatory mediation and mandatory nonbinding arbitration for all contested civil actions and of voluntary binding arbitration for all civil disputes prior to or after a lawsuit has been filed. The plan shall be submitted, no later than March 1, 1987, to the Legislature for review and implementation.

Section 2. This act shall take effect July 1, 1986.

Amendment 2—In title, on page 1, lines 3-31, and on page 2, lines 1-15, strike all of said lines and insert: providing intent; providing for a plan for mediation and arbitration of civil actions; providing an effective date.

On motion by Senator Hair, by two-thirds vote SB 396 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Gersten	Johnson	Peterson
Beard	Gordon	Kirkpatrick	Plummer
Childers, D.	Grant	Kiser	Scott
Childers, W. D.	Grizzle	Langley	Stuart
Crenshaw	Hair	Mann	Thomas
Deratany	Hill	Margolis	Thurman
Dunn	Jenne	McPherson	Vogt
Frank	Jennings	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Neal

Consideration of SB 462 and SB 348 was deferred.

CS for HB 1104—A bill to be entitled An act relating to historic preservation; designating Calle Ocho as a state historic highway; providing definitions; prohibiting the use of state funds for certain physical changes on or near Calle Ocho; requiring approval of the Division of Archives, History, and Records Management of the Department of State for other specified changes; limiting the erection of signs; authorizing the division to obtain historic easements in property along Calle Ocho and to erect markers; prohibiting businesses that will destroy the historic value of the area to locate on Calle Ocho; requiring certain notice to the Dade County tax assessor; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendments which were moved by Senator Gersten and adopted:

Amendment 1—On page 2, strike all of lines 30 and 31 and renumber subsequent subsections.

Amendment 2—On page 3, strike all of lines 23 and 24 and insert: *roads intersecting the limits of Calle Ocho.*

Amendment 3—On page 4, lines 2 and 7, strike *"and the association"*

Amendment 4—On page 4, lines 18 and 19, strike *", after consultation with the association"*

Amendment 5—On page 6, strike all of lines 5-8 and renumber subsequent sections.

Amendment 6—On page 6, between lines 10 and 11, insert:

Section 7. Prior to approving any alteration of Calle Ocho the division shall advertise and hold a public hearing and shall notify all affected businesses, property owners of record, and those known associations representing residents, property owners, and merchants. Additionally, the Department of Transportation shall consult with these associations representing affected persons before making any alterations.

Amendment 7—In title, on page 1, lines 12-14, strike "prohibiting businesses that will destroy the historic value of the area to locate on Calle Ocho;"

Amendment 8—In title, on page 1, line 9, after the semicolon (;) insert: requiring the division to hold hearings;

On motion by Senator Gersten, by two-thirds vote CS for HB 1104 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	Johnson	Myers
Beard	Gersten	Kirkpatrick	Peterson
Childers, D.	Girardeau	Kiser	Plummer
Childers, W. D.	Gordon	Langley	Scott
Crawford	Grant	Malchon	Stuart
Crenshaw	Grizzle	Mann	Thomas
Deratany	Hair	Margolis	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jennings	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Neal

On motion by Senator Gordon, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

CS for SB 626—A bill to be entitled An act relating to workers' compensation; amending s. 440.13, F.S., relating to limitations on charges for medical services under the Workers' Compensation Law; providing procedures and considerations for determining schedules of maximum reim-

bursement allowances to health care providers; providing for adoption of such schedules by rule by the Department of Labor and Employment Security; providing for utilization review; providing for administrative penalties; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 12, after the semicolon (;) insert: amending s. 440.45, F.S., providing for permanent reassignments of deputy commissioners;

Amendment 2—On page 7, line 1, insert:

Section 3. Subsections (2), (4), and (9) of section 440.185, Florida Statutes, are amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(2) Within 7 days of actual knowledge of injury or death, the employer shall report such injury or death to the carrier and the employee, on a form prescribed by the division, providing the following information:

(a) The name, address, and business of the employer;

(b) The name, social security number, street, mailing address, telephone number, and occupation of the employee;

(c) The cause and nature of the injury or death;

(d) The year, month, day, and hour when, and the particular locality where, the injury or death occurred; and

(e) Such other information as the division may require, including a clear and understandable summary statement of the rights, benefits, and obligations of injured workers under the Workers' Compensation Law.

The carrier or a self-insured employer shall, within 10 days of receipt of the form reporting the injury, mail the form containing the information required by this subsection to the division at its address in Tallahassee. ~~The employer shall file a copy of the report with the division office in Tallahassee within 10 days after such employer has knowledge of injury if the injury has resulted in death or has caused the employee to have lost 7 or more consecutive days of work.~~ However, the division may by rule provide for a different reporting system *for those types of injuries it determines should be reported in a different manner and* for those cases which involve minor injuries requiring professional medical attention and in which the employee does not lose more than 7 days of work as a result of the injury and is able to return to his job immediately after treatment and resume his regular work.

(4) Upon receipt of notice of injury from the *carrier or self-insured* employer, or any other indication of a compensable injury, the division shall immediately mail to the injured worker an informational brochure, as prescribed by the division, which sets forth in clear and understandable language a summary statement of the rights, benefits, and obligations of injured workers under the Workers' Compensation Law, together with an explanation of its operation. The division shall review any such notice or indication of injury received; and, if it appears to the division that the injury will result in permanent impairment, the division shall, within 3 days of receipt of such notice or indication of injury, contact the injured worker or a family member serving as personal representative thereof, by telephone if possible, otherwise by mail, in order to discuss the rights and benefits of the injured employee under the Workers' Compensation Law and to assist the injured worker in securing any benefits provided for under this chapter to which such injured worker is entitled. The division shall monitor the furnishing of benefits by the employer or carrier to ascertain that correct benefits are being furnished in cases accepted as compensable injuries. In the event of controversion or the filing of a claim, the division shall attempt to resolve the claim, promptly review the controversion, and communicate the results of its investigation, along with its recommendations, to the parties. If the division determines that it cannot establish the relevant facts necessary to resolve the issues in a claim, the division may curtail its investigation and promptly forward the file to the appropriate deputy commissioner for any requested hearing on the claim. In either event, the division shall forward the file to the appropriate deputy commissioner no later than 15 days prior to the date set for such final hearing.

(9) Any employer or carrier who fails or refuses to *timely* send any form, report, or notice required by this section shall be subject to a civil penalty not to exceed $100 for each such failure or refusal. However, any employer who fails to notify the carrier of the injury on the prescribed form or by letter within the 7 days required in subsection (2) shall be liable for the civil penalty, which shall be paid by the employer and not the carrier. Failure by the employer to meet its obligations under subsection (2) shall not relieve the carrier from liability for the civil penalty if it fails to comply with subsections (4) and (5).

Section 4. Paragraph (b) of subsection (12) of section 440.20, Florida Statutes is amended to read:

440.20 Payment of compensation.—

(12)

(b)1. Notwithstanding the provisions of paragraph (a), a lump-sum payment in exchange for the employer's or carrier's release from liability for future medical expenses, as well as future payments of compensation and rehabilitation expenses, shall be allowed at any time in any case in which the employer or carrier has initially filed a written notice to controvert and denied that a compensable accident or injury occurred for which compensation and medical and rehabilitation expenses are payable, and the deputy commissioner at a hearing to consider the settlement proposal finds a justiciable controversy as to legal or medical compensability of the claimed injury or the alleged accident. In such event, and upon the joint petition of all interested parties and after giving due consideration to the interests of all interested parties, the deputy commissioner may enter a compensation order approving and authorizing the discharge of the liability of the employer for compensation and remedial treatment, care, and attendance, as well as rehabilitation expenses, by the payment of a lump sum. Such a compensation order so entered upon joint petition of all interested parties is not subject to modification or review under s. 440.28. If the settlement proposal together with supporting evidence is not approved by the deputy commissioner, it shall be considered null and void. If the employer or carrier initially accepts the case as compensable or provides any benefits to the employee or his dependents, this subparagraph does not apply. Notwithstanding the provisions of s. 440.34(3)(c), a claimant shall be responsible for the payment of his own attorney's fees in any case settled under this subsection. Upon approval of a lump-sum settlement under this subsection, the deputy commissioner shall send a report to the chief commissioner of the amount of the settlement and a statement of the nature of the controversy. The chief commissioner shall keep a record of all such reports filed by each deputy commissioner and shall submit to the Legislature a summary of all such reports filed under this subsection *annually* by March ~~1, 1985~~.

2. In recognition of the concerns relating to total lump-sum settlements, this paragraph is repealed on July 1, *1988* ~~1986~~.

(Renumber subsequent sections.)

Amendment 3—On page 1, in title, line 12, after the semicolon (;) insert: amending s. 440.185, F.S., revising provisions relating to notice and report of injury and death; amending s. 440.20, F.S., providing for a 2-year sunset-type provision; requiring submission of report concerning lump-sum settlements to Legislature;

Amendment 4—On page 7, lines 8 and 9, strike all of said lines and insert:

Section 4. Paragraph (c) is added to subsection (1) of section 440.16, Florida Statutes, to read:

440.16 Compensation for death.—

(1) If death results from the accident within 1 year thereafter or follows continuous disability and results from the accident within 5 years thereafter, the employer shall pay:

(c) To the surviving spouse, payment of postsecondary student fees for instruction at any area vocational-technical center established under s. 230.63 for up to 1,800 classroom hours or payment of student fees at any community college established under part III of chapter 240 for up to 80 semester hours. The spouse of a deceased state employee shall be entitled to a full waiver of such fees as provided in ss. 230.645 and 240.345 in lieu of the payment of such fees. The benefits provided for in this paragraph shall be in addition to other benefits provided for in this section, and shall terminate upon the remarriage of such spouse, or 7 years after the death of the deceased employee, or when the total

payment in eligible compensation under paragraph (b) has been received. To qualify for the educational benefit under this paragraph, the spouse shall be required to meet and maintain the regular admission requirements of, and be registered at, such area vocational-technical center or community college, and make satisfactory academic progress as defined by the educational institution in which the student is enrolled.

Section 5. Subsections (5) and (6) of section 230.645, Florida Statutes, are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to said section to read:

230.645 Postsecondary student fees; waiver; deferral.—

(5) The spouse of a deceased state employee is entitled, when eligible for the payment of postsecondary student fees by the state as employer pursuant to s. 440.16, in lieu of such payment, to a full waiver of postsecondary student fees for up to 1,800 classroom hours of instruction in any area vocational-technical center.

Section 6. Paragraph (d) is added to subsection (2) of section 240.345, Florida Statutes, to read:

240.345 Financial support of community colleges.—

(2) STUDENT FEES.—

(d) The spouse of a deceased state employee is entitled, when eligible for the payment of student fees by the state as employer pursuant to s. 440.16, in lieu of such payment, to a full waiver of student fees for up to 80 semester hours in any community college.

Section 7. For the purpose of incorporating the amendment to section 440.16, Florida Statutes, in a reference thereto, subsection (1) of section 440.10, Florida Statutes, is reenacted to read:

440.10 Liability for compensation.—

(1) Every employer coming within the provisions of this chapter, including any brought within the chapter by waiver of exclusion or of exemption, shall be liable for, and shall secure, the payment to his employees, or any physician, surgeon, or pharmacist providing services under the provisions of s. 440.13, of the compensation payable under ss. 440.13, 440.15, and 440.16. In case a contractor sublets any part or parts of his contract work to a subcontractor or subcontractors, all of the employees of such contractor and subcontractor or subcontractors engaged on such contract work shall be deemed to be employed in one and the same business or establishment; and the contractor shall be liable for, and shall secure, the payment of compensation to all such employees, except to employees of a subcontractor who has secured such payment. A subcontractor is not liable for the payment of compensation to the employees of another subcontractor on such contract work and is not protected by the exclusiveness of liability provisions of s. 440.11 from action at law or in admiralty on account of injury of such employee of another subcontractor.

Section 8. This act shall take effect July 1, 1986, or upon becoming a law, whichever occurs later, and shall apply to all accidents occurring on or after that date.

Amendment 5—On page 1 in the title, lines 12 and 13, strike "providing an effective date." and insert: amending s. 440.16, F.S.; providing certain educational benefits to the spouse of a deceased employee; providing for termination of such benefits; amending s. 230.645, F.S.; providing for a waiver of certain vocational-technical school fees for the spouse of a deceased state employee; amending s. 240.345, F.S.; providing for a waiver of certain community college fees for the spouse of a deceased state employee; reenacting s. 440.10(1), F.S., relating to employer's liability for compensation, to incorporate the amendment to s. 440.16, F.S., in a reference thereto; providing an effective date.

Senator Grant moved the following amendment to House amendment 2 which was adopted:

Amendment 1—On page 1, between lines 11 and 12, insert:

Section 3. Paragraph (b) of subsection (3) of section 440.15, Florida Statutes, is amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(b) Wage-loss benefits.—

1. Each injured worker who suffers any permanent impairment, which permanent impairment is determined pursuant to the schedule adopted in accordance with subparagraph (a)3., may be entitled to wage-loss benefits under this subsection. Such benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2). Subject to the maximum compensation rate as set forth in s. 440.12(2), such wage-loss benefits shall be equal to 95 percent of the difference between 85 percent of the employee's average monthly wage and the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, as compared monthly; however, the monthly wage-loss benefits shall not exceed an amount equal to 66⅔ percent of the employee's average monthly wage at the time of injury. In order to simplify the comparison of the preinjury average monthly wage with the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, the division may by rule provide for the modification of the monthly comparison so as to coincide as closely as possible with the injured worker's pay periods. *In determining the amount the employee is able to earn in any month after injury, commissions and similar irregular payments shall be allocated first to the month in which they are received, in an amount which when added to other earnings for such month does not exceed the employee's average monthly wage, and the balance in the same manner to the subsequent consecutive months until fully allocated, but not to exceed 12 months.*

2. The amount determined to be the salary, wages, and other remunerations the employee is able to earn after reaching the date of maximum medical improvement shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment. In the event the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, the salary, wages, and other remuneration that the employee is able to earn after the date of maximum medical improvement shall be deemed to be the amount which would have been earned if the employee did not limit his income or accepted appropriate employment. Whenever a wage-loss benefit as set forth in subparagraph 1. may be payable, the burden shall be on the employee to establish that any wage loss claimed is the result of the compensable injury. It shall also be the burden of the employee to show that his inability to obtain employment or to earn as much as he earned at the time of his industrial accident is due to physical limitation related to his accident and not because of economic conditions or the unavailability of employment.

3. The right to wage-loss benefits shall terminate:

a. As of the end of any 2-year period commencing at any time subsequent to the month when the injured employee reaches the date of maximum medical improvement, unless during such 2-year period wage-loss benefits shall have been payable during at least 3 consecutive months;

b. For injuries occurring on or before July 1, 1980, 350 weeks after the injured employee reaches the date of maximum medical improvement; or

c. For injuries occurring after July 1, 1980, 525 weeks after the injured employee reaches maximum medical improvement;

whichever comes first.

4. If an employee is entitled to both wage-loss benefits and social security retirement benefits under 42 U.S.C. ss. 402 and 405, such social security retirement benefits shall be primary and the wage-loss benefits shall be supplemental only. The sum of the two benefits shall not exceed the amount of wage-loss benefits which would otherwise be payable. For the purposes of termination of wage-loss benefits pursuant to subsubparagraph 3.a., the term "payable" shall be construed to include payment of social security retirement benefits in lieu of wage-loss benefits.

5. Beginning with the 25th month after maximum medical improvement and for the purpose of determining wage-loss benefits, the total wages, salary, and other remuneration for the month in consideration shall be discounted as follows:

a. For those injuries occurring on or after July 1, 1979, and on or before July 1, 1980, by a factor of 3 percent and compounded annually at 3 percent thereafter; and

b. For those injuries occurring after July 1, 1980, by a factor of 5 percent and compounded annually at 5 percent thereafter.

However, with respect to any year in which the annual rate of inflation, calculated by using the national Consumer Price Index published by the United States Department of Labor, is less than the applicable discount factor, such rate shall be substituted for such discount factor for that year.

6. The division shall keep such records and conduct such investigations as are necessary to determine the feasibility of providing additional protection from inflation for workers entitled to wage-loss benefits and shall report its findings to the Legislature not later than March 1, 1981.

Section 4. Subsection (3) of section 440.34, Florida Statutes, is amended to read:

440.34 Attorney's fees; costs; penalty for violations.—

(3) If the claimant should prevail in any proceedings before a deputy commissioner or court, there shall be taxed against the employer the reasonable costs of such proceedings, not to include the attorney's fees of the claimant. A claimant shall be responsible for the payment of his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom he successfully asserts a claim for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage-loss, or death benefits, arising out of the same accident; or

(b) In cases in which the deputy commissioner issues an order finding that a carrier has acted in bad faith with regard to handling an injured worker's claim and the injured worker has suffered economic loss. For the purposes of this paragraph, the term "bad faith" means conduct by the carrier in the handling of a claim which amounts to fraud; malice; oppression; or willful, wanton, or reckless disregard of the rights of the claimant. Any determination of bad faith shall be made by the deputy commissioner through a separate factfinding proceeding. The deputy commissioner shall issue a separate order which shall expressly state the specific findings of fact upon which the determination of bad faith is based; or

(c) In a proceeding in which a carrier or employer denies that an injury occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability.

In applying the factors set forth in subsection (1) to cases arising under paragraphs (a), (b), and (c) of this subsection, the deputy commissioner shall only consider such benefits and the time reasonably spent in obtaining them as were secured for the claimant within the scope of paragraphs (a), (b), and (c) of this subsection. In the situations set forth in paragraph (b) *of this subsection*, the payment of such attorney's fees may not be recouped, directly or indirectly, by any carrier in the rate base, the premium, or any rate filing.

Section 5. Subsection (2) of section 440.39, Florida Statutes, is amended to read:

440.39 Compensation for injuries when third persons are liable.—

(2) If the employee or his dependents accept compensation or other benefits under this law or begin proceedings therefor, the employer or, in the event the employer is insured against liability hereunder, the insurer shall be subrogated to the rights of the employee or his dependents against such third-party tortfeasor, to the extent of the amount of compensation benefits paid or to be paid as provided by subsection (3). *If the injured employee or his dependents recovers from a third-party tortfeasor by judgment or settlement, either before or after the filing of suit, before the employee has accepted compensation or other benefits under this chapter or before the employee has filed a written claim for compensation benefits, the amount recovered from the tortfeasor shall be set off against any compensation benefits other than for remedial care, treatment and attendance as well as rehabilitative services payable under this chapter. The amount of such offset shall be reduced by the amount of all court costs expended in the prosecution of the third-party suit or claim, including reasonable attorney fees for the plaintiff's attorney. In no event shall the set-off provided in this section in lieu of payment of compensation benefits diminish the period for filing a claim for benefits as provided in s. 440.19.*

Section 6. Subsection (23) is added to section 440.02, Florida Statutes, to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(23) "Construction design professional" means an architect, professional engineer, landscape architect, or land surveyor, or any corporation, professional or general, that has a certificate to practice in the construction design field from the Florida Department of Professional Regulation.

Section 7. Subsection (5) is added to section 440.09, Florida Statutes, to read:

440.09 Coverage.—

(5) Except as provided in this chapter, no construction design professional who is retained to perform professional services on a construction project, nor any employee of a construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injuries resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under this chapter, unless responsibility for safety practices is specifically assumed by contracts. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(Renumber subsequent sections.)

Senator Grant moved the following amendment to House amendment 3 which was adopted:

Amendment 1—In title, on page 1, line 12, before "amending" insert: amending s. 440.15, F.S.; revising criteria with respect to wage-loss benefits; amending s. 440.34, F.S.; providing clarifying language with respect to attorney's fees; amending s. 440.39, F.S.; revising provisions with respect to compensation for injuries where third persons are liable and where the injured employee or dependent recovers against the third party; amending s. 440.02, F.S.; defining the term "construction design professional"; amending s. 440.09, F.S.; exempting construction design professionals from general civil liability for injuries on construction projects;

On motion by Senator Gordon, the Senate concurred in House Amendments 1, 4 and 5; concurred in House Amendments 2 and 3 as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 626 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Langley	Scott
Beard	Gersten	Malchon	Stuart
Childers, D.	Girardeau	Mann	Thomas
Childers, W. D.	Gordon	Margolis	Thurman
Crawford	Grant	McPherson	Vogt
Crenshaw	Hill	Meek	Weinstein
Deratany	Jennings	Myers	
Dunn	Johnson	Peterson	
Fox	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 738 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Young—

HB 738—A bill to be entitled An act relating to education; directing the Department of Education to study the feasibility of providing a regis-

tered nurse in each public school; amending s. 231.06, F.S.; providing for penalties; creating s. 232.257, F.S., the "Safe Schools Act"; establishing a trust fund; providing for school district eligibility for funding; providing a funding formula; requiring school safety program plans and reports; providing for rules; providing an effective date.

—was referred to the Committees on Education and Appropriations.

SPECIAL ORDER, continued

On motions by Senator Weinstein, by two-thirds vote HB 738 was withdrawn from the Committees on Education and Appropriations.

On motions by Senator Weinstein, HB 738 a companion measure, was substituted for SB 348 and by two-thirds vote read the second time by title. On motion by Senator Weinstein, by two-thirds vote HB 738 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Johnson	Myers
Barron	Frank	Kirkpatrick	Peterson
Beard	Gersten	Kiser	Plummer
Childers, D.	Girardeau	Langley	Scott
Childers, W. D.	Gordon	Malchon	Stuart
Crawford	Grant	Mann	Thomas
Crenshaw	Grizzle	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jennings	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Neal

SB 348 was laid on the table.

On motion by Senator Thomas, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

SB 514—A bill to be entitled An act relating to insurance; amending s. 624.404, F.S.; redefining the term "fronting company"; authorizing the Department of Insurance to authorize insurers to transfer risks in excess of specified standards; amending s. 627.915, F.S.; removing products liability insurers from certain insurer experience reporting requirements; amending s. 628.261, F.S.; requiring the inclusion of certain information in the notice of change of director or officer provided to the department by a stock or mutual insurer; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, between lines 2 and 3, after the period (.) insert:

Section 4. Sections 632.601, 632.602, 632.603, 632.604, 632.605, 632.606, 632.607, 632.608, 632.609, 632.611, 632.612, 632.613, 632.614, 632.615, 632.616, 632.617, 632.618, 632.619, 632.621, 632.622, 632.623, 632.624, 632.625, 632.626, 632.627, 632.628, 632.629, 632.631, 632.632, 632.633, 632.634, 632.635, 632.636, 632.637, 632.638, and 632.639, Florida Statutes, are created to read:

632.601 "Fraternal benefit society" defined.—Any incorporated society, order, or supreme lodge, without capital stock, including one exempted under the provisions of s. 632.637(1)(b), whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be a "fraternal benefit society."

632.602 "Lodge system" defined.—

(1) A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated, or admitted in accordance with its laws, rules and ritual. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once in each month in furtherance of the purposes of the society.

(2) A society may, at its option, organize and operate lodges for children under the minimum age for adult membership. Initiation in lodges shall not be required of children, nor shall they have a voice or vote in the management of the society.

632.603 "Representative form of government" defined.—A society has a "representative form of government" when:

(1) It has a supreme governing body constituted in one of the following ways:

(a) Assembly.—The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed by the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's law.

(b) Direct election.—The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed 4 years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society.

(2) The officers of the society are elected either by the supreme governing body or by the board of directors;

(3) Only benefit members are eligible for election to the supreme governing body, the board of directors or any intermediate assembly; and

(4) Each voting member shall have one vote; no vote may be cast by proxy.

632.604 Terms used.—Whenever used in this chapter:

(1) "Benefit contract" means the agreement for provision of benefits authorized by s. 632.617, as that agreement is described in s. 632.621(1).

(2) "Benefit member" means an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.

(3) "Certificate" means the document issued as written evidence of the benefit contract.

(4) "Premiums" means premiums, rates, dues or other required contributions, by whatever name known, which are payable under the certificate.

(5) "Laws" shall mean the society's articles of incorporation, constitution and bylaws, however designated.

(6) "Rules" shall mean all rules, regulations or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.

(7) "Society" shall mean fraternal benefit society, unless otherwise indicated.

(8) "Lodge" shall mean subordinate member units of the society, known as camps, courts, councils, branches, or by any other designation.

632.605 Purposes and powers.—

(1) A society shall operate for the benefit of members and their beneficiaries by:

(a) Providing benefits as specified in s. 632.617; and

(b) Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic or religious purposes for the benefit of its members, which may also be extended to others; provided that such purposes do not endanger the solvency of the society. Such purposes as set forth in this paragraph may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

(2) No subsidiary corporation or affiliated organization shall transact insurance or engage in any other activity regulated under the Florida Insurance Code or other Florida law unless the subsidiary corporation or affiliated organization complies with all provisions of the applicable law. No society or subsidiary corporation or affiliated organization through which a society carries out its purposes shall own or operate a funeral home or undertaking establishment.

(3) Every society shall have the power to adopt laws and rules for the government of the society, the admission of its members, and the management of its affairs. The society shall have the power to change, alter, add to or amend such laws and rules and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

632.606 Qualifications for membership.—

(1) A society shall specify in its laws or rules:

(a) Eligibility standards for each and every class of membership, provided that if benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than age 15 and not greater than age 21;

(b) The process for admission to membership for each membership class; and

(c) The rights and privileges of each membership class, provided that only benefit members shall have the right to vote on the management of the insurance affairs of the society.

(2) A society may also admit social members who shall have no voice or vote in the management of the insurance affairs of the society.

(3) Membership rights in the society are personal to the member and are not assignable.

632.607 Location of office; meetings; communications to members; grievance procedures.—

(1) The principal office of any domestic society shall be located in this state. The meetings of its supreme governing body may be held in any state, district, province, or territory wherein such society has at least one subordinate lodge and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in the English language.

(2)(a) A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. Such required reports, notices and statements shall be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

(b) Not later than June 1 of each year, a synopsis of the society's annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society or, in lieu thereof, such synopsis may be published in the society's official publication.

(3) A society shall provide in its laws or rules for grievance or complaint procedures for members.

632.608 No personal liability.—

(1) The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

(2) Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by, and liabilities imposed upon, such person in connection with or arising out of any action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat thereof, in which the person may be involved by reason of the fact that he is or was a director, officer, employee or agent of the society or of any firm, corporation or organization which he served in any capacity at the request of the society. A person shall not be so indemnified or reimbursed:

(a) In relation to any matter in such action, suit, or proceeding as to which he shall finally be adjudged to be or have been guilty of breach of a duty as a director, officer, employee, or agent of the society; or

(b) In relation to any matter in such action, suit, or proceeding, or threat thereof, which has been made the subject of a compromise settlement,

unless in either such case the person acted in good faith for a purpose the person reasonably believed to be in, or not opposed to, the best interests of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that his conduct was unlawful. The determination as to whether the conduct of such person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in paragraphs (a) of (b) may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to such action, suit or proceeding or by a court of competent jurisdiction. The termination of any action, suit, or proceeding as to such person by judgment, order, settlement, or conviction, or upon a plea of no contest, shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which such person may be entitled as a matter of law and shall inure to the benefit of his heirs, executors, and administrator.

(3) A society shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the society, or who is or was serving at the request of the society as a director, officer, employee, or agent of any other firm, corporation, or organization against any liability asserted against such person and incurred by him in any such capacity or arising out of his status as such, whether or not the society would have the power to indemnify the person against such liability under this section.

632.609 Waiver.—

The laws of the society shall provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws or rules of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

632.611 Organization.—A domestic society organized on or after the effective date of this act shall be formed as follows:

(1) Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, shall make, sign, and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(b) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter; and

(c) The names and residences of the incorporators and the names, residences, and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme governing body, which election shall be held not later than 1 year from the date of the issuance of the permanent certificate of authority.

(2) Such articles of incorporation; duly certified copies of the society's bylaws and rules; copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society; and a bond, conditioned upon the return to the applicants of the advanced payments if the organization is not completed within 1 year, shall be filed with the department, which may require such further information as it deems necessary. The bond with sureties approved by the department shall be in such amount, not less than $300,000 nor more than $1,500,000, as required by the department. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the department shall so certify, retain, and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided.

(3) No preliminary certificate granted under the provisions of this section shall be valid after 1 year from its date or after such further period, not exceeding 1 year, as may be authorized by the department upon cause shown. The articles of incorporation and all other proceedings thereunder shall become null and void in 1 year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

(4) Upon receipt of a preliminary certificate of authority from the department, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any benefit to any person until:

(a) Actual bona fide applications for benefits have been secured on not less than five hundred applicants, and any necessary evidence of insurability has been furnished to and approved by the society;

(b) At least 10 subordinate lodges have been established into which the 500 applicants have been admitted;

(c) There has been submitted to the department, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(d) It shall have been shown to the department, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least $150,000. Such advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within 1 year, as herein provided, such premiums shall be returned to said applicants.

(5) The department may make such examination and require such further information as it deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the department shall issue to the society a certificate of authority to that effect and to the effect that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate of authority shall be prima facie evidence of the existence of the society at the date of such certificate. The department shall cause a record of such certificate of authority to be made. A certified copy of such record may be given in evidence with like effect as the original certificate of authority.

(6) Any incorporated society authorized to transact business in this state at the time this chapter becomes effective shall not be required to reincorporate.

632.612 Amendments to laws.—

(1) A domestic society may amend its laws in accordance with the provisions thereof by action of its supreme governing body at any regular or special meeting thereof or, if its laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges. A society may provide for voting by mail. No amendment submitted for adoption by referendum shall be adopted unless, within 6 months from the date of submission thereof, a majority of the members voting shall have signified their consent to such amendment by one of the methods herein specified.

(2) No amendment to the laws of any domestic society shall take effect unless approved by the department, which shall approve such amendment if it finds that the amendment has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects, and purposes of the society. Unless the department shall disapprove any such amendment within 90 days after the filing of same, the amendment shall be considered approved. The approval or disapproval of the department shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case the department disapproves the amendment, the reasons therefor shall be stated in the written notice.

(3) Within 90 days from the approval thereof by the department, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official publication of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

(4) Every foreign or alien society authorized to do business in this state shall file with the department a duly certified copy of all amendments of, or additions to, its laws within 90 days after the enactment of same.

(5) Printed copies of the laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

632.613 Institutions.—A society may create, maintain, and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by s. 632.605(1)(b). Such institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held, or leased by the society for this purpose shall be reported in every annual statement, but shall not be allowed as an admitted asset of the society.

632.614 Reinsurance.—

(1) A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the department. However, no domestic society may reinsure 75 percent or more of its insurance in force without the written permission of the department. The domestic society may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this act, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

(2) Notwithstanding the limitation in subsection (1), a society may reinsure the risks of another society in a consolidation or merger approved by the department under s. 632.615.

632.615 Consolidations and mergers.—

(1) A domestic society may not consolidate or merge with any other insurer other than another society. It may consolidate or merge with another society by complying with the provisions of this section. It shall file with the department:

(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the department but not earlier than December 31 next preceding the date of the contract;

(c) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme governing body of each society, such vote being conducted at a regular or special meeting of each such body, or, if the society's laws so permit, by mail; and

(d) Evidence that at least 60 days prior to the action of the supreme govening body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.

(2) If the department finds that the contract is in conformity with the provisions of this section, that the financial statements are correct, and that the consolidation or merger is just and equitable to the members of each society, the department shall approve the contract and issue a certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the department or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the insurance supervisory offical of such state or territory and a certificate of such approval filed with the department.

(3) Upon the consolidation or merger becoming effective as herein provided, all the rights, liabilities, franchises, and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

(4) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

632.616 Conversion of fraternal benefit society into mutual life insurance company.—Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of chapter 628. A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting shall be necessary for the approval of such plan. No such conversion shall take effect unless and until approved by the department, which may give such approval if it finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

632.617 Benefits.—

(1) A society may provide the following contractual benefits:

(a) Death benefits;

(b) Endowment benefits;

(c) Annuity benefits;

(d) Temporary or permanent disability benefits;

(e) Hospital, medical, or nursing benefits;

(f) Monument or tombstone benefits to the memory of deceased members; and

(g) Such other benefits as authorized for life insurers and which are not inconsistent with this chapter.

(2) A society shall specify in its rules those members and their dependents or persons in whom a member has an insurable interest who may be issued, or covered by, the contractual benefits set forth in subsection (1). A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

632.618 Beneficiaries.—

(1) The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.

(2) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of $1,750.

(3) If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased insured, provided that if the owner of the certificate is other than the insured, such proceeds shall be payable to such owner

632 619 Benefits not attachable.—No money or other benefit, charity, relief, or aid to be paid, provided, or rendered by any society, shall be subject to attachment, garnishment, or other process, nor seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

632.621 The benefit contract.—

(1) Every society authorized to do business in this state shall issue to each owner of a benefit contract a certificate with an identifying number specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall be attached to and shall constitute the benefit contract as of the date of issuance between the society and the owner, and the certificate shall so state. The certificate shall also incorporate by reference the laws of the society, and the society shall maintain for inspection by the benefit member a copy of such laws at each lodge and shall furnish a copy of such laws to each benefit member upon request. All statements on the application shall be representations and not warranties. Any waiver of the provision of this subsection shall be void.

(2) Any changes, additions, or amendments to the laws of the society duly made or enacted subsequent to the issuance of the certificate shall bind the owner and the beneficiaries and shall govern and control the benefit contract in all respects the same as though such changes, additions, or amendments had been made prior to, and were in force at the time of, the application for insurance, except that no change, addition, or amendment shall destroy or diminish benefits which the society contracted to give the owner as of the date of issuance.

(3) Any person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the laws and rules of the society to the same extent as though the age of majority had been attained at the time of application.

(4) A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired, its board of directors or corresponding body may require that there shall be paid by the owner to the society the amount of the owner's equitable proportion of such deficiency as ascertained by its board or corresponding body, and that if the payment is not made, either:

(a) It shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates; or

(b) In lieu of or in combination with the provisions of paragraph (a), the owner may accept a proportionate reduction in benefits under the certificate.

The society may specify the manner of the election and which alternative is to be presumed if no election is made.

(5) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

(6) No certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with the department in the manner provided for like policies issued by life insurers in this state. Every life, accident, health, or disability insurance certificate and every annuity certificate issued on or after one year from the effective date of this act shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life insurers in this state, except that a society may provide for a grace period for payment of premiums of 1 full month in its certificates. The certificate shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium.

(7) Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the certificate. A society shall not require approval of an application for membership in order to effect this transfer. Ownership rights prior to such transfer shall be speficied in the certificate. Nothing contained herein shall be construed to affect the right of fraternal benefit societies to determine eligibility requirements for membership.

(8) A society may specify the terms and conditions on which benefit contracts may be assigned.

632.622 Nonforfeiture benefits, cash surrender values, certificate loans, and other options.—

(1) For certificates issued prior to October 1, 1982, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall comply with the provisions of law applicable immediately prior thereto.

(2) For certificates issued on or after October 1, 1982, reserves shall be computed utilizing the appropriate mortality tables approved by the department for policies containing life insurance benefits made applicable to life insurers under s. 625.121.

632.623 Investments.—

(1) A society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country, or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

632.624 Funds.—

(1) All assets shall be held, invested, and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein nor become entitled to any apportionment on the surrender of any part thereof, except as provided in the benefit contract.

(2) A society may create, maintain, invest, disburse, and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

(3) A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the provisions of law regulating life insurers establishing such accounts and issuing such contracts. To the extent the society deems it necessary in order to comply with any applicable federal or state laws, or any rules issued thereunder, the society may:

1. Adopt special procedures for the conduct of the business and affairs of a separate account;

2. Provide, with respect to persons having beneficial interests therein, special voting and other rights, including, without limitation, special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee to manage the business and affairs of the account; and

3. Issue contracts on a variable basis to which subsections s. 632 621(2) and (4) shall not apply.

632.625 Exemptions.—Societies shall be governed by the provisions of this chapter and shall be exempt from all other provisions of the Florida Insurance Code unless those other provisions are expressly applicable to societies, or unless those provisions are specifically made applicable by this chapter.

632.626 Taxation.—Except as otherwise provided in this chapter, every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax other than taxes on real estate and office equipment.

632.627 Valuation.—

(1) Standards of valuation for certificates issued prior to October 1, 1982, shall be those provided by the laws applicable immediately prior to said date.

(2) The minimum standards of valuation for certificates issued on or after October 1, 1982, shall be in accordance with valuation standards utilizing the appropriate mortality tables authorized by the laws of this state for the valuation of policies issued by life insurers under s. 625.121. For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits, and for noncancellable accident and health benefits, societies shall utilize those tables as are authorized for use by life insurers in this state. All of the above shall be under valuation methods and standards, including interest assumptions, in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

(3) The department may, in its discretion, accept other standards for valuation if it finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The department may, in its discretion, vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

(4) With the consent of the insurance supervisory official of the state of domicile of the society and under such conditions, if any, which such official may impose, any society may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any benefit member shall not be affected thereby.

632 628 Reports.—

(1) Reports shall be filed in accordance with the provisions of this section. Every society transacting business in this state shall annually, on or before March 1, unless for cause shown such time has been extended by the department, file with the department a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee for filing same, as provided in s. 624.501(4). The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefits societies and as supplemented by additional information required by the department.

(2) As part of the annual statement herein required, each society shall, on or before March 1, file with the department a valuation of its certificates in force on December 31 last preceding, provided the department may, in its discretion for cause shown, extend the time for filing such valuation for not more than 2 calendar months. Such valuation shall be done in accordance with the standards specified in s. 632.627. Such valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(3) A society neglecting to file the annual statement in the form and within the time provided by this section shall be subject to an administrative fine in an amount up to $100 for each day during which such neglect continues, and, upon notice by the department to that effect, its authority to do business in this state shall cease while such default continues.

(4) The department shall deposit all fees received under this section to the credit of the Insurance Commissioner's Regulatory Trust Fund.

632.629 Annual license.—Societies which are now authorized to transact business in this state may continue such business until June 1 next succeeding the effective date of this act. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases shall terminate on the succeeding June 1. However, a license so issued shall continue in full force and effect until the new license is issued or specifically refused. The society shall pay the department the annual license tax provided for in s. 624.501(3) for each such license or renewal. A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

632.631 Examination of societies; no adverse publications.—

(1) The department, or any person it may appoint, may examine any domestic, foreign, or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign, or alien insurers. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers, shall also be applicable to the examination of societies.

(2) The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the department.

632.632 Foreign or alien society; admission.—No foreign or alien society shall transact business in this state without a license issued by the department. Any such society desiring admission to this state shall have the qualifications required of domestic societies organized under this chapter. Any such society may be licensed to transact business in this state upon filing with the department:

(1) A duly certified copy of its articles of incorporation;

(2) A copy of its bylaws, certified by its secretary or corresponding officer;

(3) A power of attorney to the department;

(4) A copy of its most recent annual statement certified under oath by its president and secretary or corresponding officers in a form prescribed by the department;

(5) A copy of an examination report conducted within the most recent 3-year period by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the department;

(6) Certification from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

(7) Copies of its certificate forms; and

(8) Such other information as the department may deem necessary;

and upon a showing satisfactory to the department that its assets are invested in accordance with the provisions of this chapter.

632.633 Additional grounds for suspension, revocation, or denial of certificate of authority; receivership; insolvency.—

(1) In addition to the grounds set forth in s. 624.418, the department may, in its discretion, suspend, revoke, or deny the certificate of authority of a society, if it finds that the society:

(a) Has exceeded its powers;

(b) Has failed to comply with any provision of this chapter;

(c) Is not fulfilling its contracts in good faith;

(d) Has a membership of less than 400 after an existence of one year or more; or

(e) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business.

(2) In addition to the grounds set forth in s. 626.9571, whenever the department has reason to believe that any society is operating in violation of this chapter or of any provision of the Florida Insurance Code applicable to societies, the provisions of s. 626.9571 and of ss. 626.9581, 626.9591 and 626.9601 shall apply.

(3) Any rehabilitation, liquidation, conservation, or dissolution of a society shall be conducted under the supervision of the department. The department shall have all the powers with respect to such rehabilitation, liquidation, conservation, or dissolution that are granted to the department under the laws governing the rehabilitation, liquidation, conservation, or dissolution of life insurance companies.

632.634 Licensing of agents.—

(1) Agents of societies shall be licensed in accordance with the provisions of the Florida Insurance Code regulating the licensing, examination, revocation, suspension or termination of the license of resident and nonresident life, health and variable annuity insurance agents.

(2) No examination or license shall be required of any regular salaried officer, employee, or member of a licensed society who devotes substantially all of his services to activities other than the solicitation of benefit contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained.

(3) Any agent, representative, or member of a society who in any preceding calendar year has solicited and procured life insurance benefit contracts on behalf of any society in a total amount of insurance less than $50,000, or, in the case of any other kind or kinds of insurance benefit contracts which the society might write, on not more than 25 individuals, shall be exempt from the agent licensing requirements of subsection (1). Every society shall register, on forms prescribed by the department and on or before March 1 of each year, the name and residence address of each agent, representative, or member exempt under the provisions of this subsection and shall, within 30 days of termination of employment, notify the department of the termination. Any agent, representative, or member for which an exemption is claimed due to employment by the society subsequent to March 1 shall be registered by the society with the department within 10 days of the date of employment.

632.635 Unfair methods of competition and unfair and deceptive acts and practices.—Every society authorized to do business in this state shall be subject to the provisions of the Unfair Insurance Trade Practices Act as provided in part VIII of chapter 626; provided, however, that nothing in such provisions shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership, or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society.

632.636 Penalties.—

(1) The provisions of s. 624.15 shall apply with respect to:

(a) Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society;

(b) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this state,

(c) Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed.

(2) Any person who willfully makes false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

632.637 Exemption of certain societies.—

(1) Nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of societies, orders, or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(b) Orders, societies, or associations which admit to membership only persons engaged in hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such order, societies, or associations;

(c) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house, or corporation which provide for a death benefit of not more than $1,000 or disability benefits of not more than $1,000 to any person in any one year, or both; or

(d) Domestic societies or associations of a purely religious, charitable, or benevolent description, which provide for a death benefit of not more than $1,000 or for disability benefits of not more than $1,000 to any one person in any one year, or both.

(2) Any such society or association described in paragraph (1)(c) or paragraph (1)(d), which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (1)(d) which has more than 1,000 members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

(3) No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in paragraph (1)(b), shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(4) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter, except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability shall not apply to such society.

(5) The department may require from any society or association, by examination or otherwise, such information as will enable the department to determine whether such society or association is exempt from the provisions of this chapter.

(6) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state

632 638 Applicability of other code provisions.—In addition to the provisions heretofore contained or referred to in this chapter, other chapters and provisions of this code shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, as follows:

(1) Part I of chapter 624;

(2) Part II of chapter 624;

(3) Sections 624.404, 624.415, 624.416, 624.418, 624.420, 624.421, 624.4211, 624.422, and 624.423;

(4) Section 624.501;

(5) Part I of chapter 626;

(6) Sections 626.901 through 626.912;

(7) Part VIII of chapter 626, subject to the limitations set forth in s. 632.341;

(8) Section 627.424;

(9) Section 627.428;

(10) Section 627.479; and

(11) Part I of chapter 631.

632.639 Severability.—If any provision of this chapter or the application of such provision to any circumstance is held invalid, the remainder of the chapter or the application of the provision to other circumstances shall not be affected thereby.

Section 5. *Sections 632.011, 632.021, 632 031, 632.041, 632.051, 632.061, 632.071, 632.081, 632.091, 632.121, 632 131, 632.141, 632.171, 632.181, 632.191, 632.201, 632.211, 632.221, 632 231, 632.241, 632.251, 632 261, 632.271, 632.281, 632.291, 632.301, 632.311, 632.321, 632.331, 632 341, 632.351, 632.361, 632.371, 632.381, 632.391, 632.401, 632.411, 632 421, 632.431, 632.441, 632.442, 632.451, 632.461, 632.481, 632.511, 632.521, 632.531, 632.541, and 632.551, Florida Statutes, and section 632.471, Florida Statutes, as amended by chapter 85-208, Laws of Florida, and section 632.571, Florida Statutes, as amended by chapter 85-62, Laws of Florida, are hereby repealed.*

Section 6. *Chapter 632, Florida Statutes, is repealed on October 1, 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

Section 7. Subsection (2) of the first section 809 of chapter 82-243, Laws of Florida, is amended to read:

Section 809. The following provisions of the Florida Statutes are repealed on October 1, 1991, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes:

(2) Chapters 625, 628, 630, 631, ~~632,~~ and 641, Florida Statutes, relating to accounting, investments, and deposits; stock and mutual insurers; alien insurers; trusted assets, domestication; ~~fraternal benefit societies;~~ health care service plans; and health maintenance organizations.

(Renumber subsequent section.)

Amendment 2—On page 1 in the title, line 13, after the semicolon (;) insert: creating ss. 632.601-632.639, F.S.; substantially revising provisions relating to fraternal benefit societies; repealing ss. 632.011-632.571, F.S.; abolishing existing regulation of such societies; providing for review and repeal;

Amendment 3—On page 4, line 4, insert new section 3:

Section 7. Paragraph (a) of subsection (7) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTERS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the city of residence of the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. *An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report, by a physician licensed under the same licensing chapter as the treating physician whose treating authorization is sought to be withdrawn, stating that treatment was not reasonable, related or necessary.*

(Renumber subsequent sections.)

Amendment 4—In title, on page 1, line 13, after the semicolon (;) insert: amending s. 627.736, F.S., relating to mental and physical examinations of injured persons;

On motions by Senator Thomas, the Senate concurred in House Amendments 1 and 2; refused to concur in House Amendments 3 and 4 and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 3; has refused to concur in Senate Amendment 2 and requests the Senate to recede; and passed HB 256, as amended and requests the concurrence of the Senate.

Allen Morris, Clerk

HB 256—A bill to be entitled An act relating to elections; amending s. 101.24, F.S., providing for ballot transfer containers; amending s. 101.5609, F.S.; revising ballot requirements; amending s. 101.5610, F.S.; providing for inspection of ballot information by election board; amending s. 101.5614, F.S., relating to canvass of returns; providing an effective date.

On motion by Senator Dunn, the Senate receded from Amendment 2.

HB 256 passed as amended. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Fox	Jennings	Peterson
Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Childers, D.	Girardeau	Kiser	Stuart
Childers, W. D.	Gordon	Langley	Thomas
Crawford	Grant	Malchon	Thurman
Crenshaw	Grizzle	Margolis	Vogt
Deratany	Hair	Meek	Weinstein
Dunn	Hill	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

On motions by Senator Malchon, by two-thirds vote HB 679 was withdrawn from the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Malchon, by unanimous consent—

HB 679—A bill to be entitled An act relating to motor vehicles; amending s. 320.0848, F.S., providing for annual renewal of the exemption entitlement parking permit for handicapped persons; revising permit specifications; providing for renewal decals; providing for fees and the disposition thereof; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Malchon, by two-thirds vote HB 679 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	Kirkpatrick	Plummer
Barron	Gersten	Kiser	Scott
Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Malchon	Thurman
Crenshaw	Grizzle	Margolis	Vogt
Deratany	Hill	McPherson	Weinstein
Dunn	Jennings	Meek	
Fox	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB 895—A bill to be entitled An act relating to optometry; amending ss. 463.001, 463.002, 463.003, 463.005, 463.006, 463.007, 463.009, 463.012, 463.013, 463.015, 463.016, 463.018, 463.019, F.S.; reviving and readopting, notwithstanding scheduled repeals, chapter 463, F.S., relating to the regulation of optometry; providing legislative findings and purpose; providing definitions; providing conforming language; providing application and examination fees; providing continuing education requirements; prescribing conditions for the release of a contact lens prescription; proscribing certain acts and providing criminal penalties therefor; providing additional grounds for disciplinary action and administrative penalties; increasing administrative fines; providing for licensure by endorsement; providing for prospective application; creating s. 463.0055, F.S., providing for appropriate advice; repealing s. 463.014, F.S., relating to prohibited acts; providing for future repeal and legislative review; providing an effective date.

—with pending Amendment 2 which was withdrawn.

Senators Kirkpatrick, Thomas and Barron offered the following amendment which was moved by Senator Kirkpatrick:

Amendment 3—On page 1, line 27, strike everything after the enacting clause and insert:

Section 1. Section 463.0001, Florida Statutes, is created to read:

463.0001 Short title.—This chapter shall be known as the "Optometry Practice Act."

Section 2. Section 463.001, Florida Statutes, is amended to read:

463.001 Purpose; ~~legislative findings;~~ intent.—

~~(1) The Legislature finds that the practice of optometry is declared a health care profession. Unskilled and incompetent practitioners present a danger to the public health and safety. The Legislature finds further that it is difficult for the public to make an informed choice when selecting an optometrist and that the consequences of a wrong choice could seriously endanger the public health and safety. The Legislature declares that the only way to protect the public from the incompetent practice of optometry is through the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the law.~~

~~(2)~~ The sole legislative purpose in enacting this chapter is to ensure *that every optometrist practicing in this state meets minimum requirements for safe practice. It is the legislative intent that optometrists who fall below minimum standards or who otherwise present a danger to the public shall be prohibited from practicing in this state* ~~the protection of the public health and safety~~.

~~(3)~~ Nothing in this chapter shall be construed to prevent a person licensed under chapter 458, chapter 459, or *part I of* chapter *484* 464 from performing those services which he is licensed to perform. *The provisions of this chapter shall have no application to any person furnishing assistance in case of an emergency* ~~or delegating to his supportive personnel those services which he is licensed to perform~~.

Section 3. Section 463.002, Florida Statutes, is amended to read:

463.002 Definitions.—As used in this chapter:

(1) "Board" means the Board of Optometry.

(2) "Department" means the Department of Professional Regulation.

(3) *"Licensed practitioner"* ~~"Optometrist"~~ means a person who is *a primary health care provider* licensed to engage in the practice of optometry ~~in this state~~ under the authority of this chapter. *A licensed practitioner shall be required to display at his place of business a sign which states, "I am a Licensed Practitioner, not a Certified Optometrist and I am not able to prescribe topical ocular pharmaceutical aids."*

(4) "Certified optometrist" means a licensed practitioner authorized by the board to administer and prescribe topical ocular pharmaceutical agents.

(5)~~(4)~~ "Optometry" means the diagnosis of *conditions of* the human eye and its appendages; the employment of any objective or subjective means or methods, *including the administration of topical ocular pharmaceutical agents,* for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages; and the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and any other means or methods, *including topical ocular pharmaceutical agents,* for the correction,

remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages.

(6)~~(5)~~ "Direct supervision" means supervision to an extent that the licensee remains on the premises while all *procedures are* ~~work is~~ being done and gives final approval to any *procedures* ~~work~~ performed by an employee.

(7) "General supervision" means the responsible supervision of supportive personnel by a licensee who need not be present when such procedures are performed, but who assumes legal liability therefor. Except in cases of emergency, general supervision shall require the easy availability or physical presence of the licensee for consultation with and direction of the supportive personnel.

(8) "Appendages" mean the eyelids, the eyebrows, the conjunctiva and the lacrimal apparatus.

(9) "Transcript quality" means a course which is in conjunction with or sponsored by a school or college of optometry or equivalent educational entity, which course is approved by the board and requires a test and passing grade.

(10) "Clock hours" means the actual time engaged in approved coursework and clinical training.

Section 4. Section 463.003, Florida Statutes, is amended to read:

463.003 Board of Optometry.—

(1) There is created within the Department of Professional Regulation a Board of Optometry, composed of seven members appointed by the Governor and confirmed by the Senate.

(2) Five members of the board shall be licensed *practitioners actively practicing* ~~optometrists in good standing~~ in this state, and the remaining two members shall be citizens of the state who are not, nor have ever been, licensed *practitioners* ~~optometrists~~ and who are in no way connected with the practice of optometry *or with any vision-oriented profession or business.*

~~(3) Within 60 days after June 30, 1979, the Governor shall appoint seven eligible and qualified members of the board as follows:~~

~~(a) Two members for terms of 2 years each.~~

~~(b) Two members for terms of 3 years each.~~

~~(c) Three members for terms of 4 years each.~~

(3)~~(4)~~ As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. ~~The members of the board serving on July 1, 1979, shall continue in office until their successors are appointed.~~

(4)~~(5)~~ All applicable provisions of chapter 455 *and s. 20.30(5)* relating to activities of regulatory boards shall apply.

Section 5. Section 463.005, Florida Statutes, is amended to read:

463.005 Authority *of the board*~~; to make rules~~.—

(1) The Board of Optometry is authorized to make such rules not inconsistent with law as *are* ~~may be~~ necessary to carry out the duties and authority conferred upon the board by this chapter ~~and as may be necessary to protect the health, safety, and welfare of the public~~. Such rules shall include, but not be limited to, rules relating to:

(a)~~(1)~~ *Standards* ~~A standard~~ of practice, *including, but not limited to, those provided for in s. 463.0135* ~~for licensed optometrists~~.

(b)~~(2)~~ Minimum equipment which an optometrist shall at all times possess to engage in the practice of optometry.

(c) Minimum procedures which shall constitute a visual examination.

(d)~~(3)~~ Procedures for *the safekeeping and* transfer of prescription files or case records upon the *discontinuance of practice* ~~going out of business of an optometrist~~.

(e) Supervision of supportive personnel.

(f) Courses and procedures for continuing education.

(g) Administration and prescription of topical ocular pharmaceutical agents.

(2) The board is authorized to disseminate information, the sole purpose of which is to inform licensed practitioners and the public of regulations regarding the practice of optometry.

Section 6. Section 463.0055, Florida Statutes, is created to read:

463.0055 Administration and prescription of topical ocular pharmaceutical agents; certification.—

(1) Certified optometrists may administer and prescribe topical ocular pharmaceutical agents as provided in this section for the diagnosis and treatment of ocular conditions of the human eye and its appendages, without the use of surgery or other invasive techniques. However, a licensed practitioner who is not certified pursuant to this section may use topically applied anesthestics solely for the purpose of glaucoma examinations, but is otherwise prohibited from administering or prescribing topical ocular pharmaceutical agents.

(2) The board shall issue certification for the administration and prescription of topical ocular pharmaceutical agents in the diagnosis and treatment of ocular conditions to licensed practitioners who have completed the appropriate forms as required by the board and who have submitted proof of fulfilling all of the following requirements:

(a) Successful completion of at least 110 hours of approved transcript quality coursework and clinical training in general and ocular pharmacology, as determined by the board. However, no course in pharmacology shall be approved by the board unless the course is conducted by an institution which has facilities for both the didactic and clinical instructions in pharmacology and which is accredited by a regional or professional accrediting organization that is recognized and approved by the Council on Post-Secondary Accreditation or the United States Department of Education.

(b) Completion of at least 1 year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of optometric experience.

(c) Successful completion of an examination approved by the board which tests knowledge of general and ocular pharmacology with particular emphasis on the topical application of pharmaceutical agents for the eye and the side effects of such pharmaceutical agents.

(d) The board shall establish by rule an application fee, not to exceed $250, and an examination fee, not to exceed $250, for certification pursuant to this section.

(3)(a) There is hereby created a committee composed of two optometrists licensed pursuant to Chapter 463, two physicians or osteopathic physicians licensed pursuant to Chapter 458 or Chapter 459, and one additional person with a doctorate degree in pharmacology who is not licensed pursuant to Chapters 458, 459 or 463. The members of the Committee shall be appointed by the Secretary. The Commimttee shall submit to the Secretary a formulary of topical ocular pharmaceutical agents for the administration and prescription by certified optometrists. The formulary shall consist of those topical ocular pharmaceutical agents which the certified optometrist is qualified pursuant to s. 463.0055 to use in the practice of optometry. The department shall establish the formulary by rule. Notwithstanding any provision of Chapter 120 to the contrary the formulary rule shall become effective 60 days from the date it is filed with the Secretary of State, unless the Board of Pharmacy pursuant to notice as provided for in s. 120.54, holds a hearing within 30 days from its receipt of the rule, at which hearing the Board of Pharmacy rejects the rule in whole or in part. If the Board of Pharmacy rejects the rule in whole or in part, the Secretary shall transmit notice to the Secretary of State of the withdrawal of that portion of the rule rejected. Notwithstanding the provisions of this section, a licensed optometrist in active practice may continue to use the diagnostic and therapeutic means and methods which he was using as of the effective date of this act, if they are considered acceptable practice within the optometric community. Such use may continue until the effective date of the rules provided for in this section. This paragraph shall not be construed to preclude the Board of Optometry from discipling a licensed practitioner for violations of this act.

(b) The formulary may be added to or deleted from according to the procedure described in paragraph (a). Any person who requests an inclusion, addition, or deletion of an authorized topical ocular pharmaceutical agent shall have the burden of proof to show cause why such inclusion, addition, or deletion should be made.

(c) Upon adoption of the formulary required by this section, and upon each addition, deletion, or modification to the formulary, the Board of Optometry shall mail a copy of the amended formulary to each certified optometrist and to each pharmacy licensed by the state.

(d) A certified optometrist shall be issued a prescriber number by the board. Any prescription written by a certified optometrist for a topical ocular pharmaceutical agent pursuant to this section shall have the prescriber number printed thereon.

Section 7. Subsections (1) and (3) of section 463.006, Florida Statutes, are amended to read:

463.006 Licensure by examination.—

(1) Any person desiring to be licensed as an optometrist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board *determines* ~~certifies~~ has:

(a) Completed the application form and remitted an examination fee not to exceed $250 as set by the board.

(b) Submitted proof satisfactory to the department that he is *at least* 18 years of age, *has graduated from* ~~or over and a graduate of~~ an accredited school or college of optometry approved by rule of the board, *and is of good moral character.*

(3) Each applicant who successfully passes the examination and *otherwise* meets the requirements of this chapter shall be entitled to be licensed as an optometrist.

Section 8. Subsection (5) of section 463.007, Florida Statutes, is amended to read:

463.007 Renewal of license; *continuing education* ~~periodic demonstration of competency~~.—

(5)(a) Unless otherwise provided by law, the board *shall* ~~may~~ require licensees to periodically demonstrate their professional competence, as a condition of renewal of a license, by completing up to 30 hours of continuing education *during the 2-year period preceding license renewal* ~~every 2 years~~. *For those optometrists certified by the board to administer and prescribe topical ocular pharmaceutical agents, the 30-hour continuing education requirement shall include 6 or more hours of approved transcript quality coursework in ocular pharmacology during the 2-year period preceding application for license renewal.*

(b) Criteria or course content of continuing education shall be approved by the board and shall be regularly reviewed by the board to assure that the programs adequately and reliably contribute to the professional competence of the licensee.

~~(c) The board shall adopt rules to implement the provisions of this act.~~

Section 9. Section 463.008, Florida Statutes, is amended to read:

463.008 Inactive status.—

(1) A license which has become inactive may be reactivated pursuant to *this section* ~~s. 463.007~~ upon application to the department. *The applicant for reactivation shall disclose on the application whether any disciplinary action has been taken against any optometry license the practitioner possessed in any other jurisdiction during the time period in which the Florida license was inactive.* The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed *15* ~~12~~ classroom hours for each year the license was inactive~~.~~*, in addition to completion of the number of hours required for renewal on the date the license became inactive. The board shall, by rule, determine the length of time, not less than 4 nor more than 6 years, within which an inactive license shall be reactivated. Any inactive license which is not reactivated within that time shall automatically expire.* ~~Any such license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for renewal of such license. Once a license expires, it becomes null and void without any further action by the board or department.~~ One year prior to expiration of the *inactive* license, the department shall give notice to the licensee *at the licensee's last address of record.*

(2) The board shall promulgate rules relating to *application procedures for inactive status,* ~~licenses which have become inactive and for~~ the *biennial* renewal of inactive licenses, *and for the reactivation of licenses* . The board shall prescribe by rule *an application fee for inactive status, a renewal fee for inactive status, and a fee for the reactivation of a license. Each of these fees shall be the same as the biennial renewal fee established by the board for an active license.* ~~a fee not to exceed $50 for the reactivation of an inactive license and a fee not to exceed $50 for the renewal of an inactive license.~~

(3) The department shall not reactivate a license unless the inactive licensee has paid an inactive application fee, any applicable biennial renewal fee, and a reactivation fee.

Section 10. Section 463.009, Florida Statutes, is amended to read:

463.009 Supportive personnel.—*No person other than a licensed practitioner may engage in the practice of optometry as defined in s. 463.002(5). Except as provided in this section, under no circumstances shall nonlicensed supportive personnel be delegated diagnosis or treatment duties, provided, however, that such personnel may perform data gathering, preliminary testing, prescribed visual therapy, and related duties under the direct supervision of the licensed practitioner. Nonlicensed personnel who need not be employees of the licensed practitioner may perform ministerial duties, tasks, and functions, assigned to them by and performed under the general supervision of a licensed practitioner, including obtaining information from consumers for the purpose of making appointments for the licensed practitioner. The licensed practitioner shall be responsible for all delegated acts performed by persons under his direct and general supervision.* ~~No person other than a licensed optometrist may engage in the practice of optometry, except that a licensed optometrist may delegate to nonlicensed supportive personnel those duties, tasks, and functions which do not fall within the purview of s. 463.002(4). All such delegated acts shall be performed under the direct supervision of a licensed optometrist who shall be responsible for all such acts performed by persons under his supervision.~~

Section 11. Section 463.011, Florida Statutes, is amended to read:

463.011 Exhibition of license.—Each person to whom a license *or branch office license* is issued by the department shall keep said license conspicuously displayed in *the appropriate* ~~his~~ office ~~or place of business~~ and shall, whenever required, exhibit said license to any ~~member or~~ authorized representative of the department.

Section 12. Section 463.012, Florida Statutes, is amended to read:

463.012 Prescriptions; filing; *release;* duplication.—

(1) A licensed optometrist shall keep on file for a period of at least 2 years any prescription he writes.

(2)(a) An optometrist shall make available to the patient or his agent any spectacle prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 5 years.

(b) An optometrist shall make available to the patient or his agent any daily wear soft contact lens prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 2 years.

~~(2) An optometrist shall, upon request by a patient or his agent, make available a duplicate copy of any original prescription less than 2 years old. Any duplicate prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.~~

Section 13. Section 463.0135, Florida Statutes, is created to read:

463.0135 Standards of practice.—

(1) A licensed practitioner shall provide that degree of care which conforms to that level of care provided by medical practitioners in the same or similar communities. A licensed practitioner shall advise or assist his patient in obtaining further care when the service of another health care practitioner is required.

(2) A licensed practitioner diagnosing angle closure, infantile, or congenital forms of glaucoma shall refer the patient to a physician skilled in diseases of the eye and who is licensed under chapter 458 or chapter 459.

(3) When an infectious corneal disease condition has not responded to standard methods of treatment within the scope of optometric prac-

tice, the certified optometrist shall consult with a physician who treats diseases of the eye and who is licensed under chapter 458 or chapter 459.

(4) A licensed practitioner shall promptly advise a patient to seek evaluation by a licensed physician for diagnosis and possible treatment whenever the licensed practitioner is informed by the patient of the sudden onset of spots or "floaters" with loss of all or part of the visual field.

(5) The licensed practitioner shall routinely advise a patient to immediately contact the licensed practitioner if the patient experiences an adverse drug reaction.

(6) The licensed practitioner shall, when appropriate, refer to medical specialists or facilities, patients who notify a licensed practitioner of an adverse drug reaction.

(7) The licensed practitioner shall place in a patient's permanent record information describing any adverse drug reaction experienced by the patient, the date of such reaction, and whether any referral was made.

(8) The licensed practitioner shall maintain the names of at least three physicians, physician clinics, or hospitals to whom the licensed practitioner will refer patients who experience an adverse drug reaction. At least one of these physicians shall be skilled in the diagnosis and treatment of diseases of the eye.

Section 14. Section 463.014, Florida Statutes, is amended to read:

463.014 Certain acts prohibited.—

(1) ~~Except as otherwise provided in this section:~~

~~(a) No optometrist shall practice or attempt to practice under a name other than his own or under the name of a professional association. No optometrist shall practice under the name of any company, corporation, trade name, business name, or other fictitious entity.~~

(a)~~(b)~~ No corporation, lay body, organization, or individual other than a licensed *practitioner* ~~optometrist~~ shall engage in the practice of optometry through the means of engaging the services, upon a salary, commission, or other means or inducement, of any person licensed to practice optometry in this state. *Nothing in this section shall be deemed to prohibit the association of a licensed practitioner with a multidisciplinary group of licensed health care professionals, the primary objective of which is the diagnosis and treatment of the human body.*

(b)~~(c)~~ No optometrist shall engage in the practice of optometry with any corporation, organization, group, or lay individual. This provision shall not prohibit *licensed practitioners* ~~optometrists~~ from employing, or from forming partnerships or professional associations with, *licensed practitioners* ~~optometrists~~ licensed in this state *or with other licensed health care professionals, the primary objective of whom is the diagnosis and treatment of the human body.*

(c)~~(d)~~ No rule of the board shall forbid the practice of optometry in or on the premises of a commercial or mercantile establishment.

(d) No optometrist may practice under practice identification names, trade names, or service names, unless any dissemination of information by the optometrist to consumers contains the name under which the practitioner is licensed or that of the professional association in which the practitioner participates. Any advertisement or other dissemination of information to consumers may contain factual information as to the geographic location of licensed practitioners or of the availability of optometric services.

(e) No optometrist shall adopt and publish or cause to be published any practice identification name, trade name, or service name which is, contains, or is intended to serve as an affirmation of the quality or competitive value of the optometric services provided at the identified practice.

(2) A corporation or labor organization may employ *licensed practitioners* ~~optometrists~~ to provide optometric services to bona fide employees of such corporation and members of their immediate families or to bona fide members of such labor organization and members of their immediate families, provided the provision of such services is incidental to the legitimate business ~~or other lawful purposes~~ of such corporation or labor organization. *Nothing in* this section shall ~~not~~ be deemed to authorize the employment of optometrists by corporations or organizations formed primarily for such purposes unless such corporation or organization is licensed under part I of chapter 637.

(3) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any systemic drugs by a licensed practitioner is prohibited.

(4) Surgery of any kind, including the use of lasers, is expressly prohibited. Certified optometrists may remove superficial foreign bodies. For the purposes of this subsection, "superficial foreign bodies" means any foreign matter that is embedded in the conjunctiva or cornea, but which has not penetrated the globe.

(5) No rule of the board shall prohibit an optometrist from authorizing a board-certified optician to fill, fit, adapt, or dispense a contact lens prescription as authorized under chapter 484.

Section 15. Section 463.015, Florida Statutes, is amended to read:

463.015 Violations and penalties.—

(1) *Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084* ~~No person shall~~:

(a) *Practicing or attempting to* practice optometry *without a valid* ~~unless the person holds an~~ active license *issued* pursuant to this act.;

~~(b) Use the name or title "optometrist" when the person has not been licensed pursuant to this act;~~

~~(c) Present as his own the license of another;~~

(b)~~(d)~~ *Attempting to obtain or* ~~Give false or forged evidence to the board or a member thereof for the purpose of~~ obtaining a license *to practice optometry by fraudulent misrepresentation.*;

(c)~~(e)~~ *Using* ~~Use~~ or *attempting* ~~attempt~~ to use a license to practice optometry which has been suspended or revoked.;

(2) Each of the following acts constitutes a misdemeanor of the second degree as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Identifying one's activity by using the name or title "optometrist," "licensed practitioner," "certified optometrist," "Doctor of Optometry," or "O.D." in a manner which represents to the public that the person is a licensed practitioner when the person has not been licensed pursuant to this act.

(b)~~(f)~~ Knowingly *employing* ~~employ~~ unlicensed persons in the practice of optometry, *except as specifically authorized by this chapter.*~~; or~~

(c)~~(g)~~ Knowingly *concealing* ~~conceal~~ information *relating* ~~relative~~ to violations of this chapter.

(d) Willfully making any false oath or affirmation when required to make an oath or affirmation pursuant to this chapter.

~~(2) Any person who violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 16. Paragraphs (d), (e), and (r) of subsection (1), paragraphs (c) and (e) of subsection (2), and subsection (3) of section 463.016, Florida Statutes, are amended, and paragraph (t) is added to subsection (1) of said section, to read:

463.016 Grounds for disciplinary action; action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. *Any plea of nolo contendre shall be considered a conviction for purposes of this chapter.*

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include

only those which are signed by the licensee in his capacity as a licensed *practitioner* ~~optometrist~~.

(r) Violating any provision of *s. 463.014 or* s. 463.015.

(t) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know he is not competent to perform.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(c) Imposition of an administrative fine not to exceed *$5,000* ~~$1,000~~ for each count or separate offense.

(e) Placement of the *licensed practitioner* ~~optometrist~~ on probation for a period of time and subject to such conditions as the board may specify, including requiring the *licensed practitioner* ~~optometrist~~ to submit to treatment, to attend continuing education courses, or to work under the supervision of another *licensed practitioner* ~~optometrist~~.

(3) The board shall not reinstate the license of *a person* ~~an optometrist~~, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of optometry.

Section 17. Section 463.019, Florida Statutes, is amended to read:

463.019 Saving clauses.—

(1) No judicial or administrative proceeding pending on *October 1, 1986* ~~July 1, 1979~~, shall be abated as a result of the repeal and reenactment of this chapter.

(2) All licenses valid on *October 1, 1986* ~~July 1, 1979~~, shall remain in full force and effect. Henceforth, all licenses shall be applied for and renewed in accordance with this act.

Section 18. *Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, chapter 463, Florida Statutes, shall not stand repealed on October 1, 1986, and shall continue in full force and effect as amended herein.*

Section 19. *Chapter 463, Florida Statutes, is repealed on October 1, 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

Section 20. This act shall take effect upon becoming a law.

On motion by Senator Jenne, the rules were waived and time of adjournment was extended until completion of the special order calendar.

Senator Frank moved the following substitute amendment which failed:

Amendment 4—On page 1, line 27, strike everything after the enacting clause and insert:

Section 1. Section 463.001, Florida Statutes, is amended to read:

463.001 Purpose; legislative findings; intent.—

(1) The Legislature finds that the practice of optometry is declared a health care profession. Unskilled and incompetent practitioners present a danger to the public health, ~~and~~ safety, *and welfare*. The Legislature finds further that it is difficult for the public to make an informed choice when selecting *a licensed practitioner* ~~an optometrist~~ and that the consequences of a wrong choice could seriously endanger the public health, ~~and~~ safety, *and welfare*. The Legislature declares that ~~the only way to protect~~ the public *is protected* from the incompetent practice of optometry *by* ~~is through~~ the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the law.

(2) The sole legislative purpose in enacting this chapter is to ensure the protection of the public health, ~~and~~ safety, *and welfare*.

(3) Nothing in this chapter shall be construed to prevent a person licensed under chapter 458, chapter 459, or *part I of chapter 484* ~~chapter 464~~ from performing those services which he is licensed to perform ~~or delegating to his supportive personnel those services which he is licensed to perform~~.

Section 2. Section 463.002, Florida Statutes, is amended to read:

463.002 Definitions.—As used in this chapter:

(1) "Board" means the Board of Optometry.

(2) "Department" means the Department of Professional Regulation.

(3) *"Licensed Practitioner"* ~~"Optometrist"~~ means a person who is licensed to engage in the practice of optometry in this state under the authority of this chapter.

(4) "Optometry" means the diagnosis of the human eye and its appendages; the employment of any objective or subjective means or methods for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages; and the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and other means or methods for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages. *An optometrist may only use topically applied ophthalmic preparations for non-therapeutic purposes and such use is limited to the preparations authorized pursuant to s. 463.0136. Optometrists shall not perform surgery or utilize destructive light frequencies or intensities. Nothing herein shall prohibit an optometrist from prescribing soft or hard contact lenses for the correction of optical errors.*

(5) "Direct supervision" means supervision to an extent that the licensee remains on the premises while all *procedures are* ~~work is~~ being done and gives final approval to any *procedures* ~~work~~ performed by an employee.

(6) "General supervision" means the responsible supervision of supportive personnel by a licensee who neet not be present when such procedures are performed, but who assumes legal liability therefor. Except in cases of emergency, general supervision shall require the easy availability or physical presence of the licensee for consultation with and direction of the supportive personnel.

(7) "Appendages" mean the eyelids, the eyebrows, the conjunctiva and the lacrimal apparatus.

(8) "Transcript quality" means a course which is in conjunction with or sponsored by a school or college of optometry or equivalent educational entity, which course is approved by the board and requires a test and passing grade.

(9) "Clock hours" means the actual time engaged in approved coursework and clinical training.

Section 3. Section 463.0136, Florida Statutes, is created to read:

463.0136 Noncontrolled diagnostic drugs available for use by optometrists.—A joint committee composed of one member selected by the board of pharmacy and who is licensed under chapter 465, twomembers chosen by the board of medical examiners and who are ophthalmologists, two members that are selected by the board of optometry and who are licensed under chapter 463, is hereby created for the purpose of establishing a formulary of noncontrolled diagnostic drugs that may be used by optometrists for nontherapeutic purposes.

Section 4. *A licensed practioner shall provide that degree of care which conforms to that level of diagnostic care provided by medical practioners in the same or similiar communities.*

Section 5. Section 463.003, Florida Statutes, is amended to read:

463.003 Board of Optometry.—

(1) There is created within the Department of Professional Regulation a Board of Optometry, composed of seven members appointed by the Governor and confirmed by the Senate.

(2) Five members of the board shall be licensed *practitioners* ~~optometrists~~ in good standing in this state, and the remaining two members shall be citizens of the state who are not, nor have ever been, licensed *practitioners* ~~optometrists~~ and who are in no way connected with the practice of optometry.

(3) ~~Within 60 days after June 30, 1979,~~ The Governor shall appoint seven eligible and qualified members of the board as follows:

(a) Two members for terms of 2 years each.

(b) Two members for terms of 3 years each.

(c) Three members for terms of 4 years each.

~~(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. The members of the board serving on July 1, 1979, shall continue in office until their successors are appointed.~~

(4)~~(5)~~ All applicable provisions of chapter 455 *and s. 20.30* relating to activities of regulatory boards shall apply.

Section 6. Section 463.005, Florida Statutes, is amended to read:

463.005 Authority to make rules.—The Board of Optometry is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter and as may be necessary to protect the health, safety, and welfare of the public. Such rules shall include, but not be limited to, rules relating to:

(1) A standard of practice for licensed *practitioners* ~~optometrists~~.

(2) Minimum equipment which *a licensed practitioner* ~~an optometrist~~ shall at all times possess to engage in the practice of optometry.

(3) Procedures for *the safekeeping and* transfer of prescription files or case records upon the *discontinuance of practice by a licensed practitioner* ~~going out of business of an optometrist~~.

(4) No rule of the board shall prohibit or have the effect of prohibiting, directly or indirectly, an optometrist from practicing optometry in or on the premises of a commercial or mercantile establishment; however, this does not prohibit the board from exerting any disciplinary authority under other provisions of this act.

Section 7. Section 463.0055, Florida Statutes, is created to read:

463.0055 Standard of practice; appropriate advice.—

(1) Licensed practitioners conducting examinations shall advise a patient who exhibits any of the following symptoms, signs or conditions that such symptoms, signs or conditions may require evaluation and possible treatment by a qualified physician licensed pursuant to chapter 458 or chapter 459:

(a) 20/50 visual acuity in each eye not attained by refraction, unless the cause of impairment has already been medically determined;

(b) Any abrupt loss of vision;

(c) Flashes of light (lightning streaks or fireworks); new "floaters" (dark strings, spots or shadows before the eyes); "haloes" (colored rays or circles around a light source); dimming of vision that comes and goes; double vision;

(d) Significant pain, redness, discharge, crusting, or excessive tearing of the eye or surrounding tissues;

(e) Continuous or temporary loss of any part of the visual field, (curtain or veil blocking vision), including but not limited to glaucoma;

(f) Opacities or other abnormalities in the normally transparent parts of the eye (cornea, humours or lens) or other abnormalities within the eye;

(g) A trauma, tumor, or mass of any part of the eye (lids, conjunctiva, globe, or orbit); protrusion of one or both eyes; a size differential of the eyes;

(h) Any wandering, turning, or crossed eye (strabismus), any twitching or shaking eye (mystagmus), any "lazy eye" (amblyopia), which has not been previously examined; or

(i) Any person with diabetes or with a history of any systemic or general disease with or without ocular manifestations, unless the person is already under medical care.

(2) The Board of Optometry shall, by rule, prepare a report form to be distributed to licensed practitioners to be used for all examinations which:

(a) Lists each symptom, sign, or condition in subsection (1) with a space to show that the examinee has indicated the condition or that the examiner has observed it;

(b) Reports corrected visual acuity in each eye; and

(c) Provides for recording the date of the examination and the signature, name, and address of the examinee, the examiner, and a copy of the report to each.

Section 8. Section 463.006, Florida Statutes, is amended to read:

463.006 Licensure by examination.—

(1) Any person desiring to be licensed as *a licensed practitioner* ~~an optometrist~~ shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:

(a) Completed the application form and remitted *the appropriate fees* ~~an examination fee not to exceed $250 as set by the board~~.

(b) Submitted proof satisfactory to the department that he is *at least* 18 years of age *and was graduated from* ~~or over and a graduate of~~ an accredited school or college of optometry approved by rule of the board.

(2) The board, by rule, shall establish fees for application and examination. The fee for application shall not exceed $100 and shall be nonrefundable. The fee for examination shall not exceed $300 and may be refunded if the applicant is found ineligible to take the examination.

(3)~~(2)~~ The examination shall consist of the appropriate subjects, including applicable state laws and rules; however, the board may, by rule, substitute a national examination as part or all of the examination. The board may, by rule, offer a practical examination in addition to the written examination.

(4)~~(3)~~ Each applicant who successfully passes the examination and *otherwise* meets the requirements of this chapter shall be entitled to be licensed ~~as an optometrist~~.

Section 9. Section 463.007, Florida Statutes, is amended to read:

463.007 Renewal of license; *continuing education* ~~periodic demonstration of competency~~.—

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed $250.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(3) Any license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status. Such license may be reactivated only if the licensee meets the other qualifications for reactivation in s. 463.008.

(4) Sixty days prior to the end of the biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the licensee.

(5)(a) Unless otherwise *prohibited* ~~provided~~ by law, the board may require *all licensed practitioners* ~~licensees~~ to periodically demonstrate their professional competence, as a condition of *license* renewal ~~of a license~~, by completing up to 30 hours of continuing education *during the 2-year period preceding license renewal* ~~every 2 years~~.

(b) Criteria or course content of continuing education shall be approved by the board and shall be regularly reviewed by the board to assure that the programs adequately and reliably contribute to the professional competence of the licensee.

(c) The board shall adopt rules to implement the provisions of this *subsection* ~~act~~.

Section 10. Section 463.009, Florida Statutes, is amended to read:

463.009 Supportive personnel.—No person other than a licensed *practitioner* ~~optometrist~~ may engage in the practice of optometry, except that a licensed *practitioner* ~~optometrist~~ may delegate to nonlicensed supportive personnel those duties, tasks, and functions which do not fall within the purview of s. 463.002(4). All such delegated acts shall be performed under the direct supervision of a licensed *practitioner* ~~optometrist~~ who shall be responsible for all such acts performed by persons under his supervision. *Nonlicensed personnel, whether employed by the licensed practitioner or not, may perform any functions, other than those described in s. 463.002(4), under the general supervision of that licensed practitioner, who shall be responsible for all such acts performed.*

Section 11. Section 463.012, Florida Statutes, is amended to read:

463.012 Prescriptions; filing; duplication.—

(1) A licensed *practitioner* ~~optometrist~~ shall keep on file for a period of at least 2 years any prescription he writes.

(2) *A licensed practitioner* ~~An optometrist~~ shall, upon request by a patient or his agent, make available a duplicate copy of any original prescription *for spectacles* less than 2 years old. Any duplicate prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.

(3) A licensed practitioner may, upon request by a patient or his agent, make available a contact lens prescription less than 2 years old so that it may be filled by an optician. However, the release of a contact lens prescription may be conditioned on a particular optician filling the prescription and upon the return of the patient to the licensed practitioner for reexamination.

Section 12. Section 463.013, Florida Statutes, is amended to read:

463.013 Optometric services for certain public agencies.—Any agency of the state or county or any commission, clinic, or board administering relief, social security, health insurance, or health service under the laws of the state shall accept the services of ~~optometrists~~ licensed *practitioners* ~~in this state~~ for the purposes of diagnosing and correcting any and all visual, muscular, neurological, and anatomic anomalies of the human eyes and their appendages of any persons under the jurisdiction of said agency, clinic, commission, or board administering such relief, social security, health insurance, or health service, on the same basis, and on a parity with any other person authorized by law to render similar professional service, when such services are needed, and shall pay for such services in the same way as other professionals may be paid for similar services.

Section 13. Section 463.015, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 463.015, F.S., for present text.)

463.015 Violations and penalties.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing or attempting to practice optometry without a valid, active license issued under this chapter.

(b) Attempting to obtain or obtaining a license to practice optometry by fraudulent misrepresentation.

(c) Using or attempting to use a license which was issued under this chapter and which has been suspended or revoked.

(2) Each of the following acts constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Representing oneself by the name or title "optometrist" or "Doctor of Optometry" or the letters "O.D." when such person does not have an active license issued by the department under this chapter.

(b) Displaying any sign or taking any action that would lead the public to believe than an unlicensed person is licensed to practice optometry.

(c) Knowingly employing an unlicensed person in the practice of optometry, except as specifically authorized by this chapter.

(d) Knowingly concealing information relating to violations of this chapter.

(e) Willfully making any false oath or affirmation when required to make an oath or affirmation under this chapter.

Section 14. Section 463.016, Florida Statutes, is amended to read:

463.016 Grounds for disciplinary action; action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Procuring or attempting to procure a license to practice optometry by bribery, by fraudulent misrepresentations, or through an error of the department or board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.

(d) Being ~~convicted or~~ found guilty~~, regardless of adjudication,~~ of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. *Any plea of nolo contendere shall be considered a finding of guilt for the purposes of this chapter.*

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in his capacity as a licensed *practitioner* ~~optometrist~~.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Fraud or deceit, negligence or incompetency, or misconduct in the practice of optometry.

(h) A violation or repeated violations of provisions of this chapter, or of chapter 455, and any rules promulgated pursuant thereto.

(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising his services.

(j) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

(l) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board.

(m) Exercising influence on the patient in such a manner as to exploit the patient for financial gain of the licensee or of a third party.

(n) Gross or repeated malpractice.

(o) Practicing with a revoked, suspended, or inactive license.

(p) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. *A licensed practitioner* ~~An optometrist~~ affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of optometry with reasonable skill and safety to patients.

(q) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida laws or rules regulating optometry.

(r) Violating any provision of s. 463.015.

(s) Violating any lawful order of the board or department, previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(t) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know he is not competent to perform.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed *$5,000* ~~$1,000~~ for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the *licensed practitioner* ~~optometrist~~ on probation for a period of time and subject to such conditions as the board may specify, including requiring the *licensed practitioner* ~~optometrist~~ to submit to

treatment, to attend continuing education courses, or to work under the supervision of another *licensed practitioner* ~~optometrist~~.

(3) The board shall not reinstate the license of *a practitioner* ~~an optometrist~~, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of optometry.

Section 15. Section 463.018, Florida Statutes, is amended to read:

463.018 *Licensure by endorsement* ~~Reciprocity~~.—*The department shall issue a license by endorsement to practice optometry to any applicant who, upon applying to the department and remitting a fee set by the board not to exceed $250, demonstrates to the board that he:*

(1) Holds a valid license to practice optometry in another state of the United States for which the requirements for such licensure were substantially equivalent to or more stringent than the requirements for licensure under this chapter; or

(2) Meets the qualifications for licensure in s. 463.006 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department. ~~In order to ensure that optometrists licensed in this state may be considered for licensure in other states, the board may enter into reciprocity agreements with other states.~~

Section 16. Section 463.019, Florida Statutes, is amended to read:

463.019 Saving clauses.—

(1) No judicial or administrative proceeding pending on *October 1, 1986* ~~July 1, 1979~~, shall be abated as a result of the repeal and reenactment of this chapter.

(2) All licenses valid on *October 1, 1986* ~~July 1, 1979~~, shall remain in full force and effect. Henceforth, all licenses shall be applied for and renewed in accordance with this act.

Section 17. Notwithstanding the provisions of chapter 81-318, Laws of Florida, sections 463.001, 463.002, 463.003, 463.004, 463.005, 463.006, 463.007, 463.008, 463.009, 463.011, 463.012, 463.013, 463.015, 463.016, 463.017, 463.018, and 463.019, Florida Statutes, shall not stand repealed on October 1, 1986, as scheduled by such act, but such sections, as amended, are hereby revived and readopted. However, section 463.014, Florida Statutes, is hereby repealed.

Section 18. Chapter 463, Florida Statutes, consisting of sections 463.001, 463.002, 463.003, 463.004, 463.005, 463.006, 463.007, 463.008, 463.009, 463.011, 463.012, 463.013, 463.015, 463.016, 463.017, 463.018, and 463.019, Florida Statutes, is repealed on October 1, 1996, and shall be reviewed by the Legislature prior to that date pursuant to section 11.61, Florida Statutes.

Section 19. This act shall take effect October 1, 1986.

The vote was:

Yeas—19

Mr. President	Gordon	Kiser	Stuart
Crawford	Grizzle	Malchon	Thurman
Deratany	Hair	Myers	Vogt
Dunn	Jennings	Peterson	Weinstein
Frank	Johnson	Scott	

Nays—19

Barron	Fox	Jenne	McPherson
Beard	Gersten	Kirkpatrick	Neal
Childers, D.	Girardeau	Langley	Plummer
Childers, W. D.	Grant	Mann	Thomas
Crenshaw	Hill	Margolis	

Amendment 3 failed. The vote was:

Yeas—18

Barron	Fox	Jenne	Neal
Beard	Gersten	Kirkpatrick	Plummer
Childers, D.	Girardeau	Langley	Thomas
Childers, W. D.	Grant	Mann	
Crenshaw	Hill	McPherson	

Nays—18

Mr. President	Gordon	Kiser	Stuart
Crawford	Grizzle	Malchon	Vogt
Deratany	Hair	Myers	Weinstein
Dunn	Jennings	Peterson	
Frank	Johnson	Scott	

On motion by Senator Frank, by two-thirds vote CS for SB 895 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Kirkpatrick	Plummer
Barron	Girardeau	Kiser	Scott
Beard	Gordon	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Mann	Thurman
Crawford	Hair	Margolis	Vogt
Crenshaw	Hill	McPherson	Weinstein
Deratany	Jenne	Myers	
Dunn	Jennings	Neal	
Fox	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Gersten

Senator Thomas moved that the Senate reconsider the vote by which CS for SB 895 passed. The motion failed. The vote was:

Yeas—19

Barron	Fox	Kirkpatrick	Neal
Beard	Gersten	Langley	Plummer
Childers, D.	Grant	Mann	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Jenne	McPherson	

Nays—19

Mr. President	Girardeau	Johnson	Scott
Crawford	Gordon	Kiser	Stuart
Deratany	Grizzle	Malchon	Vogt
Dunn	Hair	Myers	Weinstein
Frank	Jennings	Peterson	

The Senate resumed consideration of—

SB 869—A bill to be entitled An act relating to bond finance; creating the "Local Government Bond Bank Act"; providing legislative intent; providing definitions; providing powers of the Division of Bond Finance of the Department of General Services; providing for certain bonds and notes; providing penalties; providing for validation of certain bonds; providing for certain resolutions and indentures; providing intent with respect to certain pledges of revenues; authorizing the creation of the Local Government Bond Bank Reserve Trust Fund; providing for certain additional reserves and funds; providing remedies; providing immunity; providing for bonds as legal investments and security; providing exemption from certain taxation; providing for advisory statements; providing for the purchase of local government bonds; providing for remedies upon default; providing for the form of certain securities; providing for estoppel; providing for construction of the act; providing an effective date.

—with pending Amendment 13 which was adopted.

Senators Crenshaw and Malchon offered the following amendment which was moved by Senator Crenshaw and adopted:

Amendment 14—On page 5, line 30, after "retain" insert: , after competitive bidding,

Senator Crenshaw moved the following amendment:

Amendment 15—On page 10, strike all of lines 29-31, on page 11, strike all of lines 1-30 and on page 12, strike all of lines 1-5 and insert:

(b) All bonds shall be sold at public sale.

Senator Crawford moved the following amendment to Amendment 15 which was adopted:

Amendment 15A—On page 1, line 12, after "bonds" insert: issued for the pooled financing of any public project or facility in Florida

Amendment 15 as amended was adopted.

On motion by Senator Crawford, by two-thirds vote SB 869 as amended was read the third time by title and failed to pass. The vote was:

Yeas—19

Mr. President	Dunn	Jenne	Peterson
Childers, D.	Fox	Johnson	Plummer
Childers, W. D.	Girardeau	Margolis	Stuart
Crawford	Gordon	Meek	Weinstein
Deratany	Grant	Neal	

Nays—19

Barron	Grizzle	Kiser	Scott
Beard	Hair	Langley	Thomas
Crenshaw	Hill	Malchon	Thurman
Frank	Jennings	Mann	Vogt
Gersten	Kirkpatrick	McPherson	

On motion by Senator Jenne, the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Jenne, by two-thirds vote SB 660 was withdrawn from the Committee on Economic, Community and Consumer Affairs; SB 805 and CS for SB 1047 were withdrawn from the Committee on Rules and Calendar; CS for SB 861 was withdrawn from the Committee on Judiciary-Civil; CS for SB 988 was withdrawn from the Committee on Commerce; SB 1046 was withdrawn from the Committee on Finance, Taxation and Claims; and HB 1151 was withdrawn from the Committees on Natural Resources and Conservation and Rules and Calendar.

On motion by Senator Jenne, the rules were waived and by two-thirds vote CS for SB 527 was placed first on the special order calendar for Friday, June 6.

On motions by Senator Jenne, by two-thirds vote CS for HB's 1371, 1291, 1328, 1327, CS for HB's 343 and 436, and CS for HB 268 were withdrawn from the Committees on Health and Rehabilitative Services; Natural Resources and Conservation; Judiciary-Civil; Education; and Finance, Taxation and Claims.

On motion by Senator Neal, the rules were waived and the Committee on Appropriations was granted permission to meet Friday, June 6, from 9:00 a.m. until 10:00 a.m. to consider CS for HB's 1371, 1291, 1328, 1327, CS for HB's 343 and 436, and CS for HB 268; CS for SB 669; HB 1194; SB 1240; SB 1216; CS for SB 1227; and SB 489.

On motions by Senator Neal, by two-thirds vote CS for SB 277, CS for CS for SB 470, SB 727, CS for SB 922, SB 957, SB 1135, CS for SB 1192 and CS for SB 655 were withdrawn from the Committee on Appropriations.

ENROLLING REPORTS

CS for SB 842, CS for SB 858, Senate Bills 128, 308, 515, 544, 547, 1280, 1281, 1283, 1289, 1291 and 1293 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on June 5, 1986.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 4 was corrected and approved as follows:

Page 619, column 2, strike line 22, from bottom, and insert: —was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Rules and Calendar.

VOTES RECORDED

Senator Crawford was recorded as voting yea on CS for SB 179, CS for SB 192, Senate Bills 449, 596, CS for SB 601, Senate Bills 929, 1237, CS for HB 115 and HB 750 which were considered May 28; CS for SB 653, CS for SB 705, Senate Bills 1181, 1208, 1323, CS for HB 617, House Bills 940, 1021, 1260 and CS for HB 1226, May 29; Senate Bills 67, 164, 401, CS for SB 450, CS for CS for SB 978, CS for HB 176, CS for HB 230, House Bills 235, 558, 1209, 1299 and 1320, June 4.

Senator Hair was recorded as voting yea on SB 217, CS for CS for SB's 432 and 281, CS for SB 780, CS for SB 973, CS for SB 1166, House Bills 123, 144, 210 and 550 which were considered June 2; CS for SB 312, SB 1214 and HB 1271, June 3.

Senator Neal was recorded as voting yea on CS for CS for SB 1090 and Amendment 1A to CS for CS for SB's 711 and 597 which were considered June 4.

RECESS

On motion by Senator Jenne, the Senate recessed at 5:28 p.m. to reconvene at 10:15 a.m., Friday, June 6.